

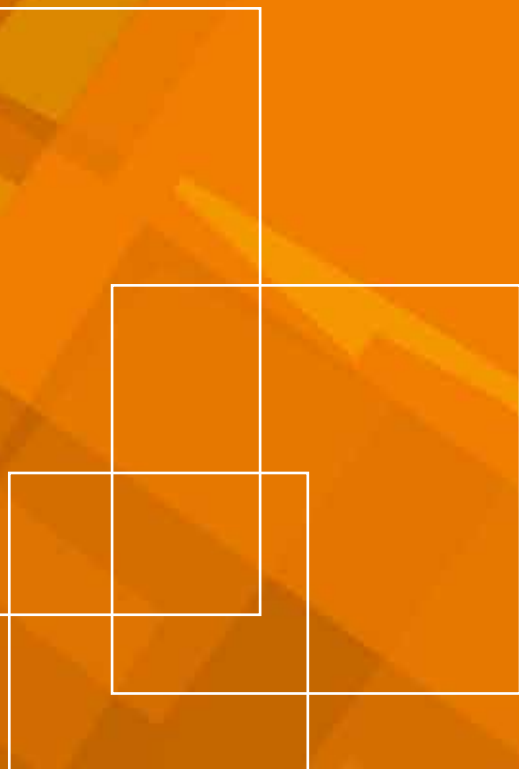


International  
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# LAB/ADMIN

## International Labour Standards and Guiding Principles on Labour Administration and Labour Inspection

Giuseppe Casale, Mario Fasani



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**International Labour Standards  
and Guiding Principles on  
Labour Administration and Labour Inspection**

**Giuseppe Casale  
Mario Fasani**

**International Labour Organization – Geneva**

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## Preface

This volume presents selected International Labour Conventions and Recommendations as well as guiding principles concerning Labour Administration and Labour Inspection. The relevant resolutions and conclusions of various ILO regional conferences and meetings have also been introduced. The aim of this publication is to make available, in a sole volume, a useful tool for labour administrators, labour inspectors, labour judges, workers, employers, researchers and academicians.

Interest in labour administration and labour inspection has increased in recent years. This is the result of further recognition that an effective system of labour administration and inspection is essential at all stages of the economic development, especially during a period of economic crisis. The growth in interest can also be attributed to a new or renewed concern for “real” social justice in many of the countries which are undergoing or contemplating significant economic changes in their respective society.

Such an interest in labour administration and labour inspection was reiterated once again during the general discussion on labour administration and labour inspection held at the International Labour Conference at its 100<sup>th</sup> Session in June 2011. The discussion covered the possibility for ILO Member States to strengthen and modernise their respective labour administration and inspection systems within the framework of international labour standards relevant to this area. In this regard, the present collection of relevant standards and guiding principles on labour administration and inspection aims at facilitating the choices that labour officials and workers’ and employers’ representative are faced with when major reforms are to be approved and implemented.

Many thanks to Mr Mario Fasani, ILO expert, who has put together this collection, and to Ms. Caroline Augé of LAB/ADMIN for assisting in the editing of this volume.

It is our hope that its wide dissemination will make a distinct and unique contribution to thinking on these subjects.

Giuseppe Casale  
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Labour Administration and  
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## Introduction

The International Labour Organization has two main Conventions on labour inspection and one main Convention on labour administration. Concerning the former, Convention No. 81 on Labour Inspection in Industry and Commerce, and Convention No. 129 on Labour Inspection in Agriculture. ILO Convention No. 129 is based on Convention No. 81 and so the bulk of the provisions in both conventions is identical, but Convention No. 129 provides the framework for extending labour inspection to agricultural workers, including workers who are not in an employment relationship or one of dependency or subordination. Convention No. 129 is not applicable to all undertakings in rural areas, but only to agriculture. As far as labour administration is concerned, the main international labour standard is Convention No. 150 on Labour Administration of 1978.

The Labour Inspection Convention, 1947 (No. 81), along with the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and their accompanying Recommendations, establish the basis for a labour inspection system. Conventions Nos. 81 and 129 have been designated as priority ILO Conventions, which means that member States are encouraged to ratify them because of their importance in the functioning of the international labour standards system. Most recently, the 2008 Declaration on Social Justice for a Fair Globalization puts special emphasis on the ILO instruments regarded as “most significant from the viewpoint of governance covering tripartism, employment policy and labour inspection”.<sup>1</sup> These instruments are now referred to as the governance Conventions, and include Conventions Nos. 81 and 129. The emphasis on achieving widespread ratification and effective implementation of these governance Conventions led the ILO Governing Body in November 2009 to approve a plan of action for promotional campaign. In the context of the economic crisis, the ILO Global Jobs Pact also recognized the relevance of instruments related to labour administration and inspection for building a sustainable recovery.

Needless to say, many ILO Conventions apply to all workers in all sectors of the economy. These include the ILO core labour standards on freedom of association, the right to collective bargaining, non-discrimination, equal pay for men and women workers, the abolition of forced labour (Convention No. 29 and Convention No. 105), and the elimination of child labour (Convention No. 138 and Convention No. 182). The Convention on Occupational Safety and Health (No. 155) and its Recommendation (No. 164) also apply to all branches of economic activity.

However, it should be noted that there are other international labour standards applicable to different occupations and sectors of the economy which in one way or another are relevant for labour inspection and labour administration. These legal instruments are reported in this document with a view to systematizing the bulk of relevant international instruments.

### Labour Administration and Labour Inspection

If we think for a moment that a huge number of self-employed and waged rural workers are subject to poor labour conditions and that many rural workers tend to be less protected by national legislation than workers in other economic sectors, one could realize

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<sup>1</sup> The international labour standards are: the Labour Inspection Convention, 1947 (No. 81); the Employment Policy Convention, 1964 (No. 122); Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

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how important is the role of labour inspection in protecting workers. Strong economic and social power imbalances between employers and workers tend to be more prevalent during the economic crisis both in rural and urban societies. Labour inspection is a vital element in the promotion of decent work for all. This aspect is recognized time and again by the ILO. In fact, an effective system of labour inspection at the national level, carried out by professionally trained and adequately resourced inspectors, and independent of improper external influence is essential for good governance.

The poor protection is given by a multitude of reasons, yet the fact that many workers in the developing world are outside the scope of the application of national labour laws constitutes the major obstacle to the effectiveness of labour legislation. For example, in some countries the agricultural sector is specifically excluded from the scope of general labour legislation, as a consequence of the fact that legislation is limited to industrial enterprises and their workforce. Sometimes they are partially excluded due to their employment status (for example, self-employed, smallholder farmers, casual and seasonal workers).

Moreover, there is substantial ignorance of the law. In many countries, there is a general ignorance of the existence of applicable laws or their content. Added to this is the fact that rural populations usually account for the highest illiteracy rates, and local languages may differ from official languages, making it more difficult for them to understand legal rules, which are usually written only in official languages.

And yet even where specific legislation has been enacted to accommodate the particular characteristics, for example in the agricultural sector –such as working time arrangements, wage structure, and the provision of housing in remote areas– inspection and enforcement tend to be weak. In some instances poor enforcement practices are due to scarce resources, geographical situation, difficulties to reach workers, concentration on urban employment. In other cases, it is simply due to the fact that inspectors themselves are under-trained, underpaid and under-equipped.

One major problem today is that labour inspectorates have great difficulties in determining the employment relationship, including the employment status of rural workers, especially given the prevalence of family farming, homework and informal work. Moreover, undeclared work is common in many cases because the complicated and expensive documentation procedure may be a deterrent to registration (the end result of which, it must be remembered, is the deduction of taxes and social security contributions from wages). Workers may not particularly wish to contribute to social security, if it cannot provide them with local, accessible health care services. Especially in developing countries, employment relationships can be blurred, ambiguous, obscured by webs of labour contracting or deliberately disguised, making protection under the law very difficult. If workers do not have a clear and direct employment relationship with the person or enterprise for which they perform work, then they will be uncertain of who employs them, and hence how to claim employment rights. The labour contractor/provider may not be a proper enterprise, but an intermediary of the supposed user enterprise, intended to conceal the user's identity as the real employer. Determining the employment relationship can be especially difficult when workers are employed by and through labour contractors (gangmasters), who ask workers for commissions, over-charge for transport, housing and food, hold back wages, and impose debt slavery.<sup>2</sup>

The labour inspection system is at the core of labour administration. It is a public function established by national legislation to secure the enforcement of the legal

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<sup>2</sup> See G. Casale, (ed. by) *The Employment Relationship: A Comparative Overview*, Hart Publishing, Oxford, ILO, Geneva, 2011.

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provisions relating to working and employment conditions and the protection of workers while engaged in their work. In addition, labour inspection services give a great deal of information and advice to employers and workers through workplace visits. Where necessary, and frequently as a last resort, inspectors may use their injunction powers and take formal enforcement action in order to achieve compliance with the law. However, in many countries the challenge is to build and extend labour inspection services to all workers.

Among common practices, mention should be made of the provision of advisory services to workers and employers with a view to promoting a culture of compliance. For example, labour inspectorates organise an annual preventive and promotional campaign to improve safety and health conditions at work in individual enterprises, as well as conferences, meetings, training and seminars for entrepreneurs, workers, and occupational health and safety staff on relevant legal provisions, the hazards inherent to asbestos, transport activities, child labour, and on musculoskeletal disorders and occupational diseases. For example, in the agricultural sector, among other preventive activities, they also organise: field shows and training courses in safe cutting methods in the event of specific threats (trees felled by storms or snowfalls) in some forest district offices; education in rural areas targeting children and adults on the most frequent work-related hazards; the organization of inspection stands and consultation points on technical safety at work during mass rural events, such as machine shows and exhibitions; the publication and distribution of brochures, guidebooks and leaflets; and the provision of information to the public through newspapers, radio and television. The labour inspectorate can also implement a number of measures that contribute towards improving the level of protection for workers in many sectors of the economy. These measures include the expansion of information and advisory activities by inspectors, the adoption of instructions relating to the formulation of occupational safety policies, the definition of procedures for the assessment of occupational risks, and training activities. The labour inspectorate can also carry out campaigns to reduce the risk of accidents (such as the use of machinery and equipment and the protection of young workers) and monitor the application of legal provisions relating to occupational safety and health. There are also labour inspectorates that are very active in raising awareness with the social partners to prevent work injuries and accidents in specific economic sectors, including the utilisation of the website, as well as through media activities and the participation of labour inspectors in social partners' meetings.

Another major area of intervention is the undeclared work. Approaches to addressing undeclared work were originally –and still remain– directed towards its deterrence. There has been a shift in a number of countries towards transforming undeclared work into formal employment and to preventing people from taking up undeclared work. In this area, some countries have adopted a National Action Plan to combat undeclared work. For example, in France a national bipartite partnership agreement was concluded between the Ministry of Agriculture, the Ministry of Migration, Integration and National Development, the Ministry of Labour, Social Affairs and Solidarity, and representative trade unions in the agricultural sector. The agreement foresees the information sharing on measures taken in the sector to fight undeclared work as well as information on the prevalence of undeclared work. It further allows trade unions the possibility of reporting cases of undeclared work for follow up by the inspection service, in addition to information campaigns. Moreover, the partnership agreement lays the groundwork for the creation of bipartite committees, which would follow up on the situation of undeclared work in several economic sectors.

Some other countries have developed indicators comparing and cross-checking information gathered from several databases, but also from other information sources. For

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example, in France, Italy, Belgium, Portugal and Spain<sup>3</sup>, there is in place a creative technique to disclose temporary undeclared work, especially during harvest seasons on plantations and vineyards. Labour inspectors compare the size of plantations with the number of working hours spent during harvest of the previous year and the number of workers registered in the database of the social security institution per month. This is done by consulting land registries, along with information on the suggested number of days for the harvest, the size of the harvest from the previous year, and the number of workers registered in the social security database. Initially, if there is a discrepancy between the data sets, employers might be requested to submit further documents including employment contracts. If this still does not resolve the discrepancy, an inspection visit might then be carried out or the employer might be called in for a meeting at the labour inspectorate. Information on property lines are double-checked using Google maps, as plantations might be difficult to be access and be scattered over great distance. As a result of this approach, in Spain the registration of workers in social security databases increased by about 217 percent in 2009 compared with 2007, and the number of work permit applications increased by 50 percent.

In other countries such as Brazil<sup>4</sup>, the intervention of labour inspectors has not only helped enterprises to bring their practices into compliance with the law, but it has also promoted innovative legal and/or technical solutions that, in some cases, have enhanced enterprises' competitiveness and productivity. For example, in the agricultural sector labour inspectors started to issue hundreds of fines and threats of seizures of farmers' estates (grain and seed production) for purposes of land reform, which was due to the widespread violations of national legislation (informality, poor working conditions, high rate of occupational accidents etc.). Parallel to this, labour inspectors provided technical and legal assistance that was decisive in promoting compliance. Alternative hiring arrangements for temporary harvest workers were developed, which were less costly to the farmers and led to the formalisation of 65,000 workers in recent years.

In a country such as Italy, the labour inspectorate launched a specific campaign to fight illegal employment, more specifically in construction and agriculture and verify compliance with safety and health provisions in enterprises. Decisive factors in the selection of priority areas were high rates of accidents (including fatal and serious ones), the expectations of social partners, the guidelines of national authorities, the recommendations of international institutions, and a large number of complaints. For example, in the agricultural sector in the course of the campaign in 2010, 7,816 farms on which where permanent workers and 7,102 temporary workers performed work were inspected, 49 percent of temporary workers were engaged illegally.

## The Employment Relationship

As mentioned above, one of the thorny issue today for labour inspectors is the determination (and/or application) of criteria for determining the nature of the employment relationship. Following serious abuses by some labour contractors, the United Kingdom<sup>5</sup> adopted the Gangmasters (Licensing) Act, 2004, establishing a Gangmaster Licensing Authority (GLA), which created a register of gangmasters, a code of practice that gangmasters must follow when hiring labour, and also makes provision for the appointment of enforcement and compliance officers. In January 2009, the Bulgarian Chief Labour Inspector and the GLA signed an agreement stating that the two state institutions

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<sup>3</sup> ITC-ILO Curriculum on "Building modern and effective labour inspection systems" Turin, Geneva, 2010.

<sup>4</sup> Roberto Pires, "Promoting sustainable compliance: Styles of labour inspection and compliance outcomes in Brazil" in *International Labour Review*, Vol. 147 (2008).

<sup>5</sup> ITC-ILO Curriculum on "Building modern and effective labour inspection systems", op. cit.

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will work closely together when inspecting and regulating labour companies that provide Bulgarian seasonal workers for the UK. This agreement followed incidents investigated by the Authority in 2008 when Bulgarian seasonal workers in the UK agricultural sector reported that they were being exploited. The incidents also involved violations of legislation by Bulgarian intermediary companies and by Bulgarian and British employers.

In most countries, enterprises are required to maintain a register of workers entering their service, which may be the only formal record of the contract (especially in the case of temporary contracts). It shows the entry of the worker, and also the termination of services. Registers must be standardized and are published and issued by ministries of labour. This type of register is an important element of legal security and serves as evidence of the employment relationship and the economic conditions of employment, and it must be available to labour inspectors<sup>6</sup>. In some countries, a “work and social security card” is compulsory to work in any activity. In Argentina<sup>7</sup>, it is compulsory to register all workers. The registration document shows the period of employment and wages, as well as other details, thus providing the worker with evidence of the contract. In Belgium<sup>8</sup>, employers are required to submit an immediate notification of employment for casual workers, who make up a major category of the workforce especially in agriculture. The objective of the immediate notification requirement (DIMONA) is for an electronic link to be developed by the authorities, which should lighten the administrative workload, identify workers accurately and quickly, and establish a clear link between the worker and the employer. This offers the labour inspectorate a means of effective supervision of compliance with the legal provisions on the daily hours of work of each casual worker engaged and the corresponding social security contributions.

## The reduction of OSH Risks and Accidents

Within the general framework of an efficient labour inspection system, there is the need to reduce to the maximum extent possible OSH risks and accidents. There are several good examples throughout the world, and one of the most effective is given by the Danish system. The Danish<sup>9</sup> Working Environment Authority has recently published risk assessment checklists for 60 different sectors or workplaces. These checklists are designed to help small enterprises carry out mandatory risk assessment, and they can help to identify the major hazards in workplaces. However, it is still the employer's responsibility to ensure that the risk assessment carried out is appropriate, comprehensive, prepared in co-operation with the employees, and monitored regularly so that it can be revised if necessary. The checklists contain a series of questions to which the company should answer yes or no. All questions to which the company answers yes constitute a working environment problem that must form part of an action plan that the company must draw up with reference to the checklist. In the majority of the European countries as well as other jurisdictions like Australia or Mauritius, there are regulatory requirements for employers to undertake risk assessments (and to consult with workers as part of this), including in situations where a change in work processes that could have implications for OSH is being contemplated.

In so doing there is a need to foster partnership between labour inspectorate and OSH authorities and strengthening collaboration with workers' and employers' organisations. In many countries, the labour and OSH inspectorates combine enforcement with education, awareness raising, advocacy, training, ownership and emphasis on the economic pay offs -

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<sup>6</sup> Informal economy, undeclared work and labour administration. ILO Geneva, 2005.  
<https://www.ilo.org/public/english/dialogue/ifpdial/downloads/informal.pdf>

<sup>7</sup> ITC-ILO Curriculum on “Building modern and effective labour inspection systems”, op. cit.

<sup>8</sup> CEACR: Individual Direct Request C.129, Belgium, Submitted: 2008.

<sup>9</sup> ITC-ILO Curriculum on “Building modern and effective labour inspection systems”, op. cit.



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improved productivity and added product value – with a view to promoting good OSH practices. In consultation with both the provincial and local labour and OSH officers, some larger employers - particularly those who were fully compliant - and the district authority gave permits for logging to the smaller-scale employers in return for guarantees of compliance, and good labour and OSH practices. Some countries have legal requirements for cooperation between OSH representatives and labour inspectors including Angola, Australia, Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, New Zealand, South Africa, Spain, Sweden, Tanzania, Uganda, and the United Kingdom. The establishment of OSH committees is legally required in countries such as Estonia, France, Norway, Romania, South Africa, and Tanzania<sup>10</sup>. Countries where there are legal requirements for cooperation between works council representatives and labour inspectors include, for example, Germany and the Netherlands.

### Labour administration and inspection vis-à-vis the crisis

It goes without saying that the global economic crisis has had an impact on all sectors of the economy, as well as a significant social impact on all levels. This has not merely led to a rise in unemployment and job rotation, but radical and progressive changes in certain indicators which have a direct bearing on the activities of the labour administration, especially the labour inspectorates (both in terms of their work and the labour conditions which they monitor) and, as a result, on efforts to maintain social stability by protecting workers and ensuring that the law is properly enforced.

The recent crisis has produced a number of negative outcomes, including an increase in precarious contracts and fragmented or disguised forms of employment, but it has also led to a decline in the number of accidents and their frequency (in that they affect, proportionately speaking, more precarious workers and young people who are contracted on a far more limited scale). At the same time, however, it has resulted in an increase in stress at work, psychological disorders, cardiovascular disease (and a growing risk of heart attacks as a result of stress caused by possible restructuring) and more prolonged inability to work<sup>11</sup>. The crisis has also led to cuts in investment in the training for workers and the purchase and maintenance of equipment.

It has also resulted in a fall in the number of legal migrant workers which has consequently, wreaked havoc on the labour market. Thus, the government of the United Kingdom has announced a new policy to reduce the influx of qualified migrants, in order to create opportunities for nationals in the British labour market<sup>12</sup>. At the same time, the number of applications filed by workers from the new EU Member States for work in countries belonging to the old EU fell from 53,000 to 29,000 between 2007 and 2008<sup>13</sup>. In addition to this, the crisis has increased the risk of people taking on “irregular” work, thereby affecting the status of those who are already resident in those countries (a drop in permit renewals and the possibility of workers being sent home), as well as new arrivals.

In Sweden, a recent SLIC review revealed that, as a consequence of the economic crisis, human and financial resources allocated to safety and health fell by 31 per cent between 2006 and 2010 (167 fewer people working on inspection or related tasks). These

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<sup>10</sup> ITC-ILO Curriculum on “Building modern and effective labour inspection systems”, op. cit.

<sup>11</sup> See the proceedings of the 56<sup>th</sup> SLIC meeting, 28 May 2009, Prague.

<sup>12</sup> See Azfar Khan, Rola Abiomourched and Ruxandra Oana: *The global crisis and the impact on Migrants* (Geneva, OIT, 7 April 2009).  
<http://www.ilo.org/public/english/support/lib/financialcrisis/featurestories/story11.htm>

<sup>13</sup> UK Border Agency: *Immigration and asylum statistic releases* (24 February 2009).

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cuts have also had an impact on professional development, funding for communication and training campaigns, as well as leading to a decline in the number of support staff, which has implied a fall in the productivity of the inspectors. As a result, the number of inspections has fallen since 2006, although the number of breaches of legislation and preventative measures taken remain stable.

In Spain, the labour administration and inspection's work doubled, with regard to cases relating to the regulation of employment, closures or downsizing, a phenomenon that grew by almost 300 per cent in comparison with 2007. Thus, for 2009, the Labour Ministry indicated that there was a need to increase inspections by 30 per cent during the crisis, in view of the fact that during such periods, (in addition to the possible growth of parallel economies which may almost become a permanent trend), the measures used to prevent accidents at work, and therefore the life and health of workers, may be affected.<sup>14</sup>

## Concluding remarks

In order to have in place a well functioning labour inspection system is necessary to have in place an efficient labour administration machinery. Labour administration and labour inspection go hand in hand. First of all, priority should be given to the identification of the undertakings to be inspected: create and maintain a registry of undertakings with minimum data. Maintain accurate databases and registers with updated information from other government services and statutory bodies (mainly, registers of property, municipalities, agricultural officers, tax authorities) as well as from inspectors' visits.

The efficiency of the system needs to be measured against the priorities, objectives and resources allocation. In this regard, the use of data to perform planning based on risk-based inspections, and the identification of patterns of violations and target campaigns are necessary. In particular, the use of data should assist in developing preventive mechanisms and assist in the analysis of the problems on working conditions. In addition, the determination of systematic criteria and guidelines to record data to maximise statistical use and policy review could further improve the overall strategy.

To make sure that there is an optimal and efficient use of inspection and education resources, a recommendation could be to establish communication and coordination mechanisms among different inspection groups that have different responsibilities over different issues, depending on the nature of the issue that is the subject of inspection. For example, constructive relations with other government services (including ministries with a responsibility for labour administration, urban and rural labour inspection, OSH in agriculture, health and education) and statutory bodies including social security authorities, police, tax authorities, judicial authorities, and labour authorities of neighbouring countries are key to the labour inspection's performance.

In addition, any labour administration system should be able to secure the effectiveness of inspectors' interventions: the labour inspectorate needs an adequate number of staff, with appropriate conditions for hiring, training and service in order to carry out its tasks effectively. These staff must also be given the necessary resources to perform their tasks and receive a specialization in specific sectors of activity. All in all, this would assist in increasing visibility, security and presence of labour inspectors.

The consistency and standardisation in enforcement has to be secured constantly. In so doing, several systems have developed manuals and checklists for both field inspectors

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<sup>14</sup> *El periódico*, Madrid, Edition published on 23/3/2009.

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and inspectorates to help them plan inspections, prepare visits, conduct inspections, deal with employers and workers, write reports, issue notices, follow procedures, etc.

In general, labour legislation enforcement should be combined with educational activities. In so doing, it is necessary to determine criteria and balance proportionally “proactive” and “reactive” inspections. It is necessary to investigate incidents and complaints, but also it is necessary to have reactive inspections. Unannounced visits, especially on issues such as forced labour, child labour and undeclared work should always be kept as a priority.

With a view to ensuring sustainability, a labour inspectorate should reinforce information and advising strategies, as one of the main reasons for breaching labour laws is the lack of information among both workers and employers. However, serious breaches of fundamental labour rights should always have strong enforcement replies.

We are of the opinion that in promoting international labour standards and guiding principles, would further consolidate a culture of compliance. It should be noted that in this regard it is essential the development of strategic alliances with the media. Labour inspectorates may organise campaigns, work with local partners and other governmental and non-governmental organizations; promote a culture of risk prevention through disseminating information, sharing best practices, and through educational activities; organise courses, seminars, conferences, radio broadcasts, exhibitions and the distribution of posters, pamphlets, and other publications and films; and ensure that they are available in languages that are understood by workers.

This would further promote an extended impact on the stakeholder’s community by making sure that the results of inspection visits and campaigns are made publicly available and ensure that violations have been remedied with a subsequent schedule for reporting follow-up visits. Finally, it should be noted that in order to achieve decent working conditions, labour inspectorates, being guided by relevant international labour standards and principles, must collaborate with employers and workers in their programs and activities.

*Part I*

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*International instruments adopted  
by the International Labour Conference*



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# International Labour Conventions and Recommendations

## Labour Administration

### 1. *Convention No. 63, Statistics of Wages and Hours of Work, 1938*

Convention concerning Statistics of Wages and Hours of Work in the Principal Mining and Manufacturing Industries, Including Building and Construction, and in Agriculture  
(Note: Date of coming into force: 22.06.1940)  
Convention: C063  
Place: Geneva  
Session of the Conference: 24  
Date of adoption: 20.06.1938  
Subject classification: Labour Statistics  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-fourth Session on 2 June 1938, and

Having decided upon the adoption of certain proposals with regard to statistics of wages and hours of work in the principal mining and manufacturing industries, including building and construction, and in agriculture, which is the sixth item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention, and

Having determined that, although it is desirable that all Members of the Organisation should compile statistics of average earnings and of hours actually worked which comply with the requirements of Part II of this Convention, it is nevertheless expedient that the Convention should be open to ratification by Members which are not in a position to comply with the requirements of that Part,

adopts this twentieth day of June of the year one thousand nine hundred and thirty-eight the following Convention, which may be cited as the Convention concerning Statistics of Wages and Hours of Work, 1938:

#### PART I. GENERAL PROVISIONS

##### *Article 1*

Each Member of the International Labour Organisation which ratifies this Convention undertakes that:

- (a) it will compile as required by this Convention statistics relating to wages and hours of work;
- (b) it will publish the data compiled in pursuance of this Convention as promptly as possible and will endeavour to publish data collected at quarterly or more frequent intervals during the succeeding quarter and to publish data collected at intervals of six or twelve months during the succeeding six or twelve months respectively; and

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- (c) it will communicate the data compiled in pursuance of this Convention to the International Labour Office at the earliest possible date.

*Article 2*

1. Any Member which ratifies this Convention may, by a declaration appended to its ratification, exclude from its acceptance of the Convention:

- (a) any one of Parts II, III, or IV; or
- (b) Parts II and IV; or
- (c) Parts III and IV.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the application of the Part or Parts of the Convention excluded from its acceptance.

*Article 3*

Nothing in this Convention imposes any obligation to publish or to reveal particulars which would result in the disclosure of information relating to any individual undertaking or establishment.

*Article 4*

1. Each Member which ratifies this Convention undertakes that its competent statistical authority shall, unless it has already obtained the information in some other way, make enquiries relating either to all, or to a representative part, of the wage earners concerned, in order to obtain the information required for the purpose of the statistics which it has undertaken to compile in accordance with this Convention.

2. Nothing in this Convention shall be interpreted as requiring any Member to compile statistics in cases in which, after enquiries made in the manner required by paragraph 1 of this Article, it is found impracticable to obtain the necessary information without the exercise of compulsory powers.

**PART II. STATISTICS OF AVERAGE EARNINGS AND OF HOURS ACTUALLY  
WORKED IN MINING AND MANUFACTURING INDUSTRIES**

*Article 5*

1. Statistics of average earnings and of hours actually worked shall be compiled for wage earners employed in each of the principal mining and manufacturing industries, including building and construction.

2. The statistics of average earnings and of hours actually worked shall be compiled on the basis of data relating either to all establishments and wage earners or to a representative sample of establishments and wage earners.

3. The statistics of average earnings and of hours actually worked shall--

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- (a) give separate figures for each of the principal industries; and
  - (b) indicate briefly the scope of the industries or branches of industry for which figures are given.

*Article 6*

The statistics of average earnings shall include:

- (a) all cash payments and bonuses received from the employer by the persons employed;
- (b) contributions such as social insurance contributions payable by the employed persons and deducted by the employer; and
- (c) taxes payable by the employed persons to a public authority and deducted by the employer.

*Article 7*

In the case of countries and industries in which allowances in kind, for example in the form of free or cheap housing, food or fuel, form a substantial part of the total remuneration of the wage earners employed, the statistics of average earnings shall be supplemented by particulars of such allowances, together with estimates, so far as practicable, of their money value.

*Article 8*

The statistics of average earnings shall be supplemented, so far as practicable, by indications as to the average amount of any family allowances per person employed in the period to which the statistics relate.

*Article 9*

1. The statistics of average earnings shall relate to average earnings per hour, day, week or other customary period.

2. Where the statistics of average earnings relate to average earnings per day, week or other customary period, the statistics of actual hours shall relate to the same period.

*Article 10*

1. The statistics of average earnings and of hours actually worked, referred to in Article 9, shall be compiled once every year and where possible at shorter intervals.

2. Once every three years and where possible at shorter intervals the statistics of average earnings and, so far as practicable, the statistics of hours actually worked shall be supplemented by separate figures for each sex and for adults and juveniles; provided that it shall not be necessary to compile these separate figures in the case of industries in which all but an insignificant number of the wage earners belong to the same sex or age group, or to compile the separate figures of hours actually worked for males and females, or for adults and juveniles, in the case of industries in which the normal hours of work do not vary by sex or age.



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*Article 11*

Where the statistics of average earnings and of hours actually worked relate not to the whole country but to certain districts, towns or industrial centres, these districts, towns or centres shall, so far as practicable, be indicated.

*Article 12*

1. Index numbers showing the general movement of earnings per hour and where possible per day, week or other customary period shall be compiled at as frequent and as regular intervals as possible on the basis of the statistics compiled in pursuance of this Part of this Convention.

2. In compiling such index numbers due account shall be taken, inter alia, of the relative importance of the different industries.

3. In publishing such index numbers indications shall be given as to the methods employed in their construction.

PART III. STATISTICS OF TIME RATES OF WAGES AND OF NORMAL HOURS OF  
WORK IN MINING AND MANUFACTURING INDUSTRIES

*Article 13*

Statistics of time rates of wages and of normal hours of work of wage earners shall be compiled for a representative selection of the principal mining and manufacturing industries, including building and construction.

*Article 14*

1. The statistics of time rates of wages and of normal hours of work shall show the rates and hours:

- (a) fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards;
- (b) ascertained from organisations of employers and workers, from joint bodies, or from other appropriate sources of information, in cases where rates and hours are not fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards.

2. The statistics of time rates of wages and of normal hours of work shall indicate the nature and source of the information from which they have been compiled and whether it relates to rates or hours fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards, or to rates or hours fixed by arrangements between employers and wage earners individually.

3. When rates of wages are described as minimum (other than statutory minimum) rates, standard rates, typical rates, or prevailing rates, or by similar terms, the terms used shall be explained.

4. *Normal hours of work*, where not fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards, shall be taken as meaning the number of hours, per day, week or other period, in excess of which any time worked is remunerated at overtime rates or forms an exception to the rules or custom of the establishment relating to the classes of wage earners concerned.

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*Article 15*

1. The statistics of time rates of wages and of normal hours of work shall give
  - (a) at intervals of not more than three years, separate figures for the principal occupations in a wide and representative selection of the different industries; and
  - (b) at least once a year, and if possible at shorter intervals, separate figures for the main occupations in the most important of these industries.
2. The data relating to time rates of wages and of normal hours of work shall be presented, so far as practicable, on the basis of the same occupational classification.
3. Where the sources of information from which the statistics are compiled do not indicate the separate occupations to which the rates or hours apply, but fix varying rates of wages or hours of work for other categories of workers (such as skilled workers, semi-skilled workers and unskilled workers) or fix normal hours of work by classes of undertakings or branches of undertakings, the separate figures shall be given according to these distinctions.
4. Where the categories of workers for which figures are given are not separate occupations, the scope of each category shall, in so far as the necessary particulars are given in the sources of information from which the statistics are compiled, be indicated.

*Article 16*

Where the statistics of time rates do not give the rates per hour but give rates per day, week, or other customary period

- (a) the statistics of normal hours of work shall relate to the same period; and
- (b) the Member shall communicate to the International Labour Office any information appropriate for the purpose of calculating the rates per hour.

*Article 17*

Where the sources of information from which the statistics are compiled give separate particulars classified by sex and age, the statistics of time rates of wages and of normal hours of work shall give separate figures for each sex and for adults and juveniles.

*Article 18*

Where the statistics of time rates of wages and of normal hours of work relate not to the whole country but to certain districts, towns or industrial centres, these districts, towns or centres shall, so far as practicable, be indicated.

*Article 19*

Where the sources of information from which the statistics at time rates and of normal hours of work are compiled contain such particulars, the statistics shall at intervals not exceeding three years indicate:

- (a) the scale of any payment for holidays;
- (b) the scale of any family allowances;

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- (c) the rates or percentage additions to normal rates paid for overtime; and
  - (d) the amount of overtime permitted.

*Article 20*

In the case of countries and industries in which allowances in kind, for example in the form of free and cheap housing, food or fuel, form a substantial part of the total remuneration of the wage earners employed, the statistics of time rates of wages shall be supplemented by particulars of such allowances, together with estimates, so far as practicable, of their money value.

*Article 21*

1. Annual index numbers showing the general movement of rates of wages per hour or per week shall be compiled on the basis of the statistics compiled in pursuance of this Part of this Convention, supplemented, where necessary, by any other relevant information which may be available (for example, particulars as to changes in piece-work rates of wages).

2. Where only an index number of rates of wages per hour or only an index number of rates of wages per week is compiled, there shall be compiled an index number of changes in normal hours of work constructed on the same basis.

3. In compiling such index numbers due account shall be taken, inter alia, of the relative importance of the different industries.

4. In publishing such index numbers indications shall be given as to the methods employed in their construction.

PART IV. STATISTICS OF WAGES AND HOURS OF WORK IN AGRICULTURE

*Article 22*

1. Statistics of wages shall be compiled in respect of wage earners engaged in agriculture.

2. The statistics of wages in agriculture shall:

- (a) be compiled at intervals not exceeding two years;
- (b) give separate figures for each of the principal districts; and
- (c) indicate the nature of the allowances in kind (including housing), if any, by which money wages are supplemented, and, if possible, an estimate of the money value of such allowances.

3. The statistics of wages in agriculture shall be supplemented by indications as to:

- (a) the categories of agricultural wage earners to which the statistics relate;
- (b) the nature and source of the information from which they have been compiled;
- (c) the methods employed in their compilation; and
- (d) so far as practicable, the normal hours of work of the wage earners concerned.

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## PART V. MISCELLANEOUS PROVISIONS

### *Article 23*

1. Any Member the territory of which includes large areas in respect of which, by reason of the difficulty of creating the necessary administrative organisation and the sparseness of the population or the stage of economic development of the area, it is impracticable to compile statistics complying with the requirements of this Convention may exclude such areas from the application of this Convention in whole or in part.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of this Article and no Member shall, after the date of its first annual report, have recourse to the provisions of this Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of this Article.

### *Article 24*

1. The Governing Body of the International Labour Office may, after taking such technical advice as it may deem appropriate, communicate to the Members of the Organisation proposals for improving and amplifying the statistics compiled in pursuance of this Convention or for promoting their comparability.

2. Each Member ratifying this Convention undertakes that it will:

- (a) submit for the consideration of its competent statistical authority any such proposals communicated to it by the Governing Body;
- (b) indicate in its annual report upon the application of the Convention the extent to which it has given effect to such proposals.

## PART VI. FINAL PROVISIONS

### *Article 25*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

### *Article 26*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

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*Article 27*

As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

*Article 28*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 29*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 30*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 28 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 31*

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

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## 2. **Recommendation No. 72, (Withdrawn) Employment Service, 1944**

Recommendation concerning the Employment Service Recommendation: R072 Place: Philadelphia Session of the Conference: 26 Date of adoption: 12.05.1944 Subject classification: Employment Services - Job Placement Subject: <b>Employment policy and Promotion</b>
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The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and Following consideration of the proposal for the withdrawal of several international labour Recommendations, which is the seventh item on the agenda of this session, decides this day of June of the year two thousand and two to withdraw the Employment Service Recommendation, 1944 (No. 72). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

The General Conference of the International Labour Organisation,

Having been convened at Philadelphia by the Governing Body of the International Labour Office, and having met in its Twenty-sixth Session on 20 April 1944, and

Having decided upon the adoption of certain proposals with regard to the employment service, which is included in the third item on the agenda of the Session, and

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

adopts this twelfth day of May of the year one thousand nine hundred and forty-four, the following Recommendation, which may be cited as the Employment Service Recommendation, 1944:

Whereas the application of the Employment (Transition from War to Peace) Recommendation, 1944, requires the existence and development of an efficient employment service; and

Whereas the Unemployment Convention, 1919, provides for the establishment of a system of free public employment agencies under the control of a central authority; and

Whereas the fulfilment of the tasks enumerated in the Employment (Transition from War to Peace) Recommendation, 1944, involves a new and broader definition of the responsibilities, functions and methods of operation of the employment service; and

Whereas this broader conception is of importance in the formulation and application of a long-term full employment policy;

The Conference recommends the Members of the Organisation to apply the following general principles, and to report to the International Labour Office from time to time, as requested by the Governing Body, concerning the measures taken to give effect to these principles:

1. The essential duty of the employment service should be to ensure, in co-operation with other public and private bodies concerned, the best possible organisation of industrial,

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agricultural and other employment as an integral part of the national programme for the full use of productive resources.

2. (1) To fulfil this duty, steps should be taken to strengthen the employment service and related authorities.

(2) These services should be responsible for:

- (a) collecting and making available information concerning labour supply, employment opportunities, the skills required to do particular jobs, changes in skill requirements within the different industries, employment and unemployment trends, the regularisation of employment and the causes of unemployment, and other information of value in promoting full employment;
- (b) assisting workers to find suitable employment and employers to find suitable workers;
- (c) assisting in developing and in determining the content of training and retraining courses;
- (d) developing methods of facilitating the transference, where necessary, of workers from one occupation or area to another;
- (e) helping to achieve the best possible distribution of manpower within each industry and area;
- (f) co-operating as may be required in the administration of unemployment insurance and assistance;
- (g) assisting other public and private bodies in planning the location of industry, public works, housing projects, social amenities, and other social and economic measures.

3. The closest co-operation between the employment service and other authorities whose activities affect the employment situation, including authorities charged with responsibility for accelerating or slowing down public works in accordance with the current state of employment and unemployment, should be established at the national, regional and local levels.

4. (1) In addition to the joint advisory bodies provided for in Article 2 of the Unemployment Convention, 1919, the employment service should co-operate closely with employers' and workers' organisations. Appropriate machinery should be devised to enable these organisations to assist in the formulation and carrying out of employment policy.

(2) The employment service should co-operate with any joint industry committees which may be set up to facilitate the solution of the special problems of the industries concerned.

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### 3. **Convention No. 88, Employment Service, 1948**

Convention concerning the Organisation of the Employment Service  
(Note: Date of coming into force: 10.08.1950)  
Convention: C088  
Place: San Francisco  
Session of the Conference: 31  
Date of adoption: 09.07.1948  
Subject classification: **Employment Services - Job Placement**

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948, and

Having decided upon the adoption of certain proposals concerning the organisation of the employment service, which is included in the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Employment Service Convention, 1948:

#### *Article 1*

1. Each Member of the International Labour Organisation for which this Convention is in force shall maintain or ensure the maintenance of a free public employment service.

2. The essential duty of the employment service shall be to ensure, in co-operation where necessary with other public and private bodies concerned, the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources.

#### *Article 2*

The employment service shall consist of a national system of employment offices under the direction of a national authority.

#### *Article 3*

1. The system shall comprise a network of local and, where appropriate, regional offices, sufficient in number to serve each geographical area of the country and conveniently located for employers and workers.

2. The organisation of the network shall:

(a) be reviewed:

- (i) whenever significant changes occur in the distribution of economic activity and of the working population, and
- (ii) whenever the competent authority considers a review desirable to assess the experience gained during a period of experimental operation; and



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- (b) be revised whenever such review shows revision to be necessary.

*Article 4*

1. Suitable arrangements shall be made through advisory committees for the co-operation of representatives of employers and workers in the organisation and operation of the employment service and in the development of employment service policy.

2. These arrangements shall provide for one or more national advisory committees and where necessary for regional and local committees.

3. The representatives of employers and workers on these committees shall be appointed in equal numbers after consultation with representative organisations of employers and workers, where such organisations exist.

*Article 5*

The general policy of the employment service in regard to referral of workers to available employment shall be developed after consultation of representatives of employers and workers through the advisory committees provided for in Article 4.

*Article 6*

The employment service shall be so organised as to ensure effective recruitment and placement, and for this purpose shall:

- (a) assist workers to find suitable employment and assist employers to find suitable workers, and more particularly shall, in accordance with rules framed on a national basis:
- (i) register applicants for employment, take note of their occupational qualifications, experience and desires, interview them for employment, evaluate if necessary their physical and vocational capacity, and assist them where appropriate to obtain vocational guidance or vocational training or retraining,
  - (ii) obtain from employers precise information on vacancies notified by them to the service and the requirements to be met by the workers whom they are seeking,
  - (iii) refer to available employment applicants with suitable skills and physical capacity,
  - (iv) refer applicants and vacancies from one employment office to another, in cases in which the applicants cannot be suitably placed or the vacancies suitably filled by the original office or in which other circumstances warrant such action;
- (b) take appropriate measures to:
- (i) facilitate occupational mobility with a view to adjusting the supply of labour to employment opportunities in the various occupations,
  - (ii) facilitate geographical mobility with a view to assisting the movement of workers to areas with suitable employment opportunities,

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- (iii) facilitate temporary transfers of workers from one area to another as a means of meeting temporary local maladjustments in the supply of or the demand for workers,
  - (iv) facilitate any movement of workers from one country to another which may have been approved by the governments concerned;
  - (c) collect and analyse, in co-operation where appropriate with other authorities and with management and trade unions, the fullest available information on the situation of the employment market and its probable evolution, both in the country as a whole and in the different industries, occupations and areas, and make such information available systematically and promptly to the public authorities, the employers' and workers' organisations concerned, and the general public;
  - (d) co-operate in the administration of unemployment insurance and assistance and of other measures for the relief of the unemployed; and
  - (e) assist, as necessary, other public and private bodies in social and economic planning calculated to ensure a favourable employment situation.

*Article 7*

Measures shall be taken:

- (a) to facilitate within the various employment offices specialisation by occupations and by industries, such as agriculture and any other branch of activity in which such specialisation may be useful; and
- (b) to meet adequately the needs of particular categories of applicants for employment, such as disabled persons.

*Article 8*

Special arrangements for juveniles shall be initiated and developed within the framework of the employment and vocational guidance services.

*Article 9*

1. The staff of the employment service shall be composed of public officials whose status and conditions of service are such that they are independent of changes of government and of improper external influences and, subject to the needs of the service, are assured of stability of employment.

2. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, the staff of the employment service shall be recruited with sole regard to their qualifications for the performance of their duties.

3. The means of ascertaining such qualifications shall be determined by the competent authority.

4. The staff of the employment service shall be adequately trained for the performance of their duties.

*Article 10*

The employment service and other public authorities where appropriate shall, in co-operation with employers' and workers' organisations and other interested bodies, take all

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possible measures to encourage full use of employment service facilities by employers and workers on a voluntary basis.

*Article 11*

The competent authorities shall take the necessary measures to secure effective co-operation between the public employment service and private employment agencies not conducted with a view to profit.

*Article 12*

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of this Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and shall give the reasons for which it proposes to have recourse thereto; no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

*Article 13*

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office as soon as possible after ratification a declaration stating:

- (a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
- (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

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4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

*Article 14*

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

- (a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
- (b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 17, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

*Article 15*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 16*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications have been registered.

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*Article 17*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 18*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 19*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 20*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 21*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 17 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

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*Article 22*

The English and French versions of the text of this Convention are equally authoritative.

#### **4. Recommendation No.83, Employment Service, 1948**

Recommendation concerning the Organisation of the Employment Service  
Recommendation: R083  
Place: San Francisco  
Session of the Conference: 31  
Date of adoption: 09.07.1948  
Subject classification: Employment Services - Job Placement  
Subject: **Employment policy and Promotion**

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948, and

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

Having determined that these proposals shall take the form of a Recommendation supplementing the Employment Service Recommendation, 1944, and the Employment Service Convention, 1948,

adopts this ninth day of July of the year one thousand nine hundred and forty-eight, the following Recommendation, which may be cited as the Employment Service Recommendation, 1948:

Whereas the Employment Service Recommendation, 1944, and the Employment Service Convention, 1948, provide for the organisation of employment services and it is desirable to supplement the provisions thereof by further recommendations;

The Conference recommends that each Member should apply the following provisions as rapidly as national conditions allow and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto.

##### I. GENERAL ORGANISATION

1. The free public employment service should comprise a central headquarters, local offices and, where necessary, regional offices.

2. In order to promote development of the employment service, and to secure unified and co-ordinated national administration, provision should be made for:

- (a) the issue by the headquarters of national administrative instructions;
- (b) the formulation of minimum national standards concerning the staffing and material arrangements of the employment offices;
- (c) adequate financing of the service by the government;
- (d) periodical reports from lower to higher administrative levels;

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- (e) national inspection of regional and local offices; and
  - (f) periodical conferences among central, regional and local officers, including inspection staff.

3. Appropriate arrangements should be made by the employment service for such co-operation as may be necessary with management, workers' representatives, and bodies set up with a view to studying the special employment problems of particular areas, undertakings, industries, or groups of industries.

4. Measures should be taken in appropriate cases to develop, within the general framework of the employment services:

- (a) separate employment offices specialising in meeting the needs of employers and workers belonging to particular industries or occupations such as port transport, merchant marine, building and civil engineering, agriculture and forestry and domestic service, wherever the character or importance of the industry or occupation or other special factors justify the maintenance of such separate offices;
- (b) special arrangements for the placement of:
  - (i) juveniles;
  - (ii) disabled persons; and
  - (iii) technicians, professional workers, salaried employees and executive staff;
- (c) adequate arrangements for the placement of women on the basis of their occupational skill and physical capacity.

## II. EMPLOYMENT MARKET INFORMATION

5. The employment service should collect employment market information, including material pertaining to:

- (a) current and prospective labour requirements (including the number and type of workers needed, classified on an industrial, occupational or area basis);
- (b) current and prospective labour supply (including details of the number, age and sex, skills, occupations, industries and areas of residence of the workers and of the number, location and characteristics of applicants for employment).

6. The employment service should make continuous or special studies on such questions as:

- (a) the causes and incidence of unemployment, including technological unemployment;
- (b) the placement of particular groups of applicants for employment such as the disabled or juveniles;
- (c) factors affecting the level and character of employment;
- (d) the regularisation of employment;
- (e) vocational guidance in relation to placement;

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- (f) occupation and job analysis; and
  - (g) other aspects of the organisation of the employment market.

7. This information should be collected by suitably trained and qualified staff, in co-operation where necessary with other official bodies and with employers' and workers' organisations.

8. The methods used for the collection and analysis of the information should include, as may be found practicable and appropriate:

- (a) direct enquiries from the bodies with special knowledge of the subjects in question, such as other public bodies, employers' and workers' organisations, public and private undertakings, and joint committees;
- (b) co-operation with labour inspection and unemployment insurance and assistance services;
- (c) periodical reports on questions having a special bearing on the employment market; and
- (d) investigations of particular questions, research projects and analyses carried out by the employment service.

### III. MANPOWER BUDGET

9. In order to facilitate the best possible organisation of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources, an annual national manpower budget should be drawn up, as soon as practicable, as part of a general economic survey.

10. The manpower budget should be drawn up by the employment service in co-operation with other public authorities where appropriate.

11. The manpower budget should include detailed material concerning the anticipated volume and distribution of the labour supply and demand.

### IV. REFERRAL OF WORKERS

12. The employment service should:

- (a) observe strict neutrality in the case of employment available in an establishment where there is a labour dispute affecting such employment;
- (b) not refer workers to employment in respect of which the wages or conditions of work fall below the standard defined by law or prevailing practice;
- (c) not, in referring workers to employment, itself discriminate against applicants on grounds of race, colour, sex or belief.

13. The employment service should be responsible for providing applicants for employment with all relevant information about the jobs to which such applicants are referred, including information on the matters dealt with in the preceding paragraph.



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## V. MOBILITY OF LABOUR

14. For the purpose of facilitating the mobility of labour necessary to achieve and maintain maximum production and employment, the employment service should take the measures indicated in paragraphs 15 to 20 below.

15. The fullest and most reliable information concerning employment opportunities and working conditions in other occupations and areas and concerning living conditions (including the availability of suitable housing accommodation) in such areas should be collected and disseminated.

16. Workers should be furnished with appropriate information and advice designed to eliminate objections to changing their occupation or residence.

17. (1) The employment service should remove economic obstacles to geographical transfers which it considers necessary by such means as financial assistance.

(2) Such assistance should be granted, in cases authorised by the service, in respect of transfers made through or approved by the service, particularly where no other arrangements exist for the payment other than by the worker of the extra expense involved in the transfers.

(3) The amount of the assistance should be determined according to national and individual circumstances.

18. The employment service should assist the unemployment insurance and assistance authorities in defining and interpreting the conditions in which available employment which is in an occupation other than the usual occupation of an unemployed person or which requires him to change his residence should be regarded as suitable for him.

19. The employment service should assist the competent authorities in establishing and developing the programmes of training or retraining courses (including apprenticeship, supplementary training and upgrading courses), selecting persons for such courses and placing in employment persons who have completed them.

## VI. MISCELLANEOUS PROVISIONS

20. (1) The employment service should co-operate with other public and private bodies concerned with employment problems.

(2) For this purpose the service should be consulted and its views taken into account by any co-ordinating machinery concerned with the formation and application of policy relating to such questions as--

- (a) the distribution of industry;
- (b) public works and public investment;
- (c) technological progress in relation to production and employment;
- (d) migration;
- (e) housing;
- (f) the provision of social amenities such as health care, schools and recreational facilities; and

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(g) general community organisation and planning affecting the availability of employment.

21. In order to promote use of employment service facilities and enable the service to perform its tasks efficiently, the service should take the measures indicated in paragraphs 22 to 25 below.

22. (1) Continuous efforts should be made to encourage full voluntary use of employment service information and facilities by persons seeking employment or workers.

(2) These efforts should include the use of films, radio and all other methods of public information and relations with a view to making better known and appreciated, particularly among employers and workers and their organisations, the basic work of the service in employment organisation and the advantages accruing to the workers, employers and the nation from the fullest use of the employment service.

23. Workers applying for unemployment benefit or allowances, and so far as possible persons completing courses of vocational training under public or government-subsidised training programmes, should be required to register for employment with the employment service.

24. Special efforts should be made to encourage juveniles, and so far as possible all persons entering employment for the first time, to register for employment and to attend for an employment interview.

25. Employers, including the management of public or semi-public undertakings, should be encouraged to notify the service of vacancies for employment.

26. Systematic efforts should be made to develop the efficiency of the employment service in such manner as to obviate the need for private employment agencies in all occupations except those in which the competent authority considers that for special reasons the existence of private agencies is desirable or essential.

## VII. INTERNATIONAL CO-OPERATION AMONG EMPLOYMENT SERVICES

27. (1) International co-operation among employment services should include, as may be appropriate and practicable, and with the help where desired of the International Labour Office--

- (a) the systematic exchange of information and experience on employment service policy and methods, either on a bilateral, regional or multilateral basis; and
- (b) the organisation of bilateral, regional or multilateral technical conferences on employment service questions.

(2) To facilitate any movements of workers approved in accordance with Article 6 (b) (iv) of the Convention, the employment service, on the request of the national authority directing it and in co-operation where desired with the International Labour Office, should:

- (a) collect in co-operation, as appropriate, with other bodies and organisations, information relating to the applications for work and the vacancies which cannot be filled nationally, in order to promote the immigration or emigration of workers able to satisfy as far as possible such applications and vacancies;
- (b) co-operate with other competent authorities, national or foreign, in preparing and applying inter-governmental bilateral, regional or multilateral agreements relating to migration.

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## 5. **Convention No. 144, Tripartite Consultation (International Labour Standards), 1976**

Convention concerning Tripartite Consultations to Promote the Implementation of International Labour Standards  
(Note: Date of coming into force: 16.05.1978)  
Convention: C144  
Place: Geneva  
Session of the Conference: 61  
Date of adoption: 21.06.1976  
Subject classification: Tripartite Consultation  
Subject: **Tripartite Consultation**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations--in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960--which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards", and having decided upon the adoption of certain proposals concerning tripartite consultation to promote the implementation of international labour standards, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-first day of June of the year one thousand nine hundred and seventy-six the following Convention, which may be cited as the Tripartite Consultation (International Labour Standards) Convention, 1976:

### *Article 1*

In this Convention the term *representative organisations* means the most representative organisations of employers and workers enjoying the right of freedom of association.

### *Article 2*

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers.

2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation

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with the representative organisations, where such organisations exist and such procedures have not yet been established.

*Article 3*

1. The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.

2. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.

*Article 4*

1. The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.

2. Appropriate arrangements shall be made between the competent authority and the representative organisations, where such organisations exist, for the financing of any necessary training of participants in these procedures.

*Article 5*

1. The purpose of the procedures provided for in this Convention shall be consultations on:

- (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
- (b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
- (c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
- (d) questions arising out of reports to be made to the International Labour Office under Article 22 of the Constitution of the International Labour Organisation;
- (e) proposals for the denunciation of ratified Conventions.

2. In order to ensure adequate consideration of the matters referred to in paragraph 1 of this Article, consultation shall be undertaken at appropriate intervals fixed by agreement, but at least once a year.

*Article 6*

When this is considered appropriate after consultation with the representative organisations, where such organisations exist, the competent authority shall issue an annual report on the working of the procedures provided for in this Convention.

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*Article 7*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 8*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

*Article 9*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 10*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 11*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 12*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

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*Article 13*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 14*

The English and French versions of the text of this Convention are equally authoritative.

**6. Recommendation No. 152, Tripartite Consultation (Activities of the International Labour Organisation), 1976**

Recommendation concerning Tripartite Consultations to Promote the Implementation of International Labour Standards and National Action relating to the Activities of the International Labour Organisation  
Recommendation: R152  
Place: Geneva  
Session of the Conference: 61  
Date of adoption: 21.06.1976  
Subject classification: Tripartite Consultation  
Subject: **Tripartite Consultation**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-first Session on 2 June 1976, and

Recalling the terms of existing international labour Conventions and Recommendations - in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Consultation (Industrial and National Levels) Recommendation, 1960 - which affirm the right of employers and workers to establish free and independent organisations and call for measures to promote effective consultation at the national level between public authorities and employers' and workers' organisations, as well as the provisions of numerous international labour Conventions and Recommendations which provide for the consultation of employers' and workers' organisations on measures to give effect thereto, and

Having considered the fourth item on the agenda of the session which is entitled "Establishment of tripartite machinery to promote the implementation of international labour standards, and having decided upon the adoption of certain proposals concerning tripartite consultations to promote the implementation of international labour standards and national action relating to the activities of the International Labour Organisation, and

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

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adopts this twenty-first day of June of the year one thousand nine hundred seventy-six, the following Recommendation, which may be cited as the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976:

1. In this Recommendation the term *representative organisations* means the most representative organisations of employers and workers enjoying the right of freedom of association.

2. (1) Each Member of the International Labour Organisation should operate procedures which ensure effective consultations with respect to matters concerning the activities of the International Labour Organisation, in accordance with Paragraphs 5 to 7 of this Recommendation, between representatives of the government, of employers and of workers.

(2) The nature and form of the procedures provided for in subparagraph (1) of this Paragraph should be determined in each country in accordance with national practice, after consultation with the representative organisations where such procedures have not yet been established.

(3) For instance, consultations may be undertaken--

- (a) through a committee specifically constituted for questions concerning the activities of the International Labour Organisation;
- (b) through a body with general competence in the economic, social or labour field;
- (c) through a number of bodies with special responsibility for particular subject areas;  
or
- (d) through written communications, where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient.

3. (1) The representatives of employers and workers for the purposes of the procedures provided for in this Recommendation should be freely chosen by their representative organisations.

(2) Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.

(3) Measures should be taken, in co-operation with the employers' and workers' organisations concerned, to make available appropriate training to enable participants in the procedures to perform their functions effectively.

4. The competent authority should assume responsibility for the administrative support and financing of the procedures provided for in this Recommendation, including the financing of training programmes where necessary.

5. The purpose of the procedures provided for in this Recommendation should be consultations--

- (a) on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;
- (b) on the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;

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- (c) subject to national practice, on the preparation and implementation of legislative or other measures to give effect to international labour Conventions and Recommendations, in particular to ratified Conventions (including measures for the implementation of provisions concerning the consultation or collaboration of employers' and workers' representatives);
  - (d) on the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;
  - (e) on questions arising out of reports to be made to the International Labour Office under articles 19 and 22 of the Constitution of the International Labour Organisation;
  - (f) on proposals for the denunciation of ratified Conventions.

6. The competent authority, after consultation with the representative organisations, should determine the extent to which these procedures should be used for the purpose of consultations on other matters of mutual concern, such as--

- (a) the preparation, implementation and evaluation of technical co-operation activities in which the International Labour Organisation participates;
- (b) the action to be taken in respect of resolutions and other conclusions adopted by the International Labour Conference, regional conferences, industrial committees and other meetings convened by the International Labour Organisation;
- (c) the promotion of a better knowledge of the activities of the International Labour Organisation as an element for use in economic and social policies and programmes.

7. In order to ensure adequate consideration of the matters referred to in the preceding Paragraphs, consultations should be undertaken at appropriate intervals fixed by agreement, but at least once a year.

8. Measures appropriate to national conditions and practice should be taken to ensure co-ordination between the procedures provided for in this Recommendation and the activities of national bodies dealing with analogous questions.

9. When this is considered appropriate after consultation with the representative organisations, the competent authority should issue an annual report on the working of the procedures provided for in this Recommendation.

## **7. Convention No. 150, Labour Administration, 1978**

Convention concerning Labour Administration: Role, Functions and Organisation (Note: Date of coming into force: 11.10.1980) Convention: C150 Place: Geneva Session of the Conference: 64 Date of adoption: 26.06.1978 Subject classification: Labour Administration Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organisation,



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Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognising the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining--and particularly the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949--which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Administration Convention, 1978:

#### *Article 1*

For the purpose of this Convention:

- (a) the term labour administration means public administration activities in the field of national labour policy;
- (b) the term system of labour administration covers all public administration bodies responsible for and/or engaged in labour administration--whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration --and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

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*Article 2*

A Member which ratifies this Convention may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or--where appropriate--to employers' and workers' representatives.

*Article 3*

A Member which ratifies this Convention may 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' organisations.

*Article 4*

Each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

*Article 5*

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organisations of employers and workers, or--where appropriate--employers' and workers' representatives.

2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national, regional and local levels as well as at the level of the different sectors of economic activity.

*Article 6*

1. The competent bodies within the system of labour administration shall, as appropriate, be responsible for or contribute to the preparation, administration, co-ordination, checking and review of national labour policy, and be the instrument within the ambit of public administration for the preparation and implementation of laws and regulations giving effect thereto.

2. In particular, these bodies, taking into account international labour standards, shall:

- (a) participate in the preparation, administration, co-ordination, checking and review of national employment policy, in accordance with national laws and regulations, and national practice;
- (b) study and keep under review the situation of employed, unemployed and underemployed persons, taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to defects and abuses in such conditions and terms and submit proposals on means to overcome them;
- (c) make their services available to employers and workers, and their respective organisations, as may be appropriate under national laws or regulations, or national practice, with a view to the promotion--at national, regional and local levels as

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well as at the level of the different sectors of economic activity --of effective consultation and co-operation between public authorities and bodies and employers' and workers' organisations, as well as between such organisations;

- (d) make technical advice available to employers and workers and their respective organisations on their request.

#### *Article 7*

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as:

- (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) members of co-operatives and worker-managed undertakings;
- (d) persons working under systems established by communal customs or traditions.

#### *Article 8*

To the extent compatible with national laws and regulations and national practice, the competent bodies within the system of labour administration shall contribute to the preparation of national policy concerning international labour affairs, participate in the representation of the State with respect to such affairs and contribute to the preparation of measures to be taken at the national level with respect thereto.

#### *Article 9*

With a view to the proper co-ordination of the functions and responsibilities of the system of labour administration, in a manner determined by national laws or regulations, or national practice, a ministry of labour or another comparable body shall have the means to ascertain whether any parastatal agencies which may be responsible for particular labour administration activities, and any regional or local agencies to which particular labour administration activities may have been delegated, are operating in accordance with national laws and regulations and are adhering to the objectives assigned to them.

#### *Article 10*

1. The staff of the labour administration system shall 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.

2. Such staff shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

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*Article 11*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 12*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

*Article 13*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 14*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 15*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 16*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

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*Article 17*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 18*

The English and French versions of the text of this Convention are equally authoritative.

**8. Recommendation No. 158, Labour Administration, 1978**

Recommendation concerning Labour Administration: Role, Functions and Organisation  
Recommendation: R158  
Place: Geneva  
Session of the Conference: 64  
Date of adoption: 26.06.1978  
Subject classification: Labour Administration  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognising the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining--and particularly the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective

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Bargaining Convention, 1949--which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Administration Convention, 1978,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Administration Recommendation, 1978:

## I. GENERAL PROVISIONS

1. For the purpose of this Recommendation:

- (a) the term *labour administration* means public administration activities in the field of national labour policy;
- (b) the term *system of labour administration* covers all public administration bodies responsible for and/or engaged in labour administration--whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration --and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

2. A Member may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or--where appropriate--to employers' and workers' representatives.

3. A Member may 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' organisations.

4. Each Member should, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

## II. FUNCTIONS OF THE NATIONAL SYSTEM OF LABOUR ADMINISTRATION

### *Labour Standards*

5. (1) The competent bodies within the system of labour administration should--in consultation with organisations of employers and workers and in a manner and under conditions determined by national laws or regulations, or national practice--take an active part in the preparation, development, adoption, application and review of labour standards, including relevant laws and regulations.

(2) They should make their services available to employers' and workers' organisations, as may be appropriate under national laws or regulations, or national

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practice, with a view to promoting the regulation of terms and conditions of employment by means of collective bargaining.

6. The system of labour administration should include a system of labour inspection.

*Labour Relations*

7. The competent bodies within the system of labour administration should 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.

8. (1) There should be labour administration programmes aimed at the promotion, establishment and pursuit of labour relations which encourage progressively better conditions of work and working life and which respect the right to organise and bargain collectively.

(2) The competent bodies within the system of labour administration should assist in the improvement of labour relations by providing or strengthening advisory services to undertakings, employers' organisations and workers' organisations requesting such services, in accordance with programmes established on the basis of consultation with such organisations.

9. The competent bodies within the system of labour administration should promote the full development and utilisation of machinery for voluntary negotiation.

10. The competent bodies within the system of labour administration should be in a position to provide, in agreement with the employers' and workers' organisations concerned, conciliation and mediation facilities, appropriate to national conditions, in case of collective disputes.

*Employment*

11. (1) The competent bodies within the system of labour administration should be responsible for or participate in the preparation, administration, co-ordination, checking and review of national employment policy.

(2) A central body of the system of labour administration, to be determined in accordance with national laws or regulations, or national practice, should be closely associated with, or responsible for taking, appropriate institutional measures to co-ordinate the activities of the various authorities and bodies which are concerned with particular aspects of employment policy.

12. The competent bodies within the system of labour administration should co-ordinate, or participate in the co-ordination of, employment services, employment promotion and creation programmes, vocational guidance and vocational training programmes and unemployment benefit schemes, and they should co-ordinate, or participate in the co-ordination of, these various services, programmes and schemes with the implementation of general employment policy measures.

13. The competent bodies within the system of labour administration should be responsible for establishing, or promoting the establishment of, methods and procedures for ensuring consultation of employers' and workers' organisations, or--where appropriate--employers' and workers' representatives, on employment policies, and promotion of their co-operation in the implementation of such policies.

14. (1) The competent bodies within the system of labour administration should be responsible for manpower planning or where this is not possible should participate in the

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functioning of manpower planning bodies through both institutional representation and the provision of technical information and advice.

(2) They should participate in the co-ordination and integration of manpower plans with economic plans.

(3) They should promote joint action of employers and workers, with the assistance as appropriate of public authorities and bodies, regarding both short-and long-term employment policies.

15. The system of labour administration should include a free public employment service and operate such a service effectively.

16. The competent bodies within the system of labour administration should, wherever national laws and regulations, or national practice, so permit, have or share responsibility for the management of public funds made available for such purposes as countering underemployment and unemployment, regulating the regional distribution of employment, or promoting and assisting the employment of particular categories of workers, including sheltered employment schemes.

17. The competent bodies within the system of labour administration should, in a manner and under conditions determined by national laws or regulations, or national practice, participate in the development of comprehensive and concerted policies and programmes of human resources development including vocational guidance and vocational training.

#### *Research in Labour Matters*

18. For the fulfilment of its social objectives, the system of labour administration should carry out research as one of its important functions and encourage research by others.

### III. ORGANISATION OF THE NATIONAL SYSTEM OF LABOUR ADMINISTRATION

#### *Co-ordination*

19. The ministry of labour or another comparable body determined by national laws or regulations, or national practice, should take or initiate measures ensuring appropriate representation of the system of labour administration in the administrative and consultative bodies in which information is collected, opinions are considered, decisions are prepared and taken and measures of implementation are devised with respect to social and economic policies.

20. (1) Each of the principal labour administration services competent with respect to the matters referred to in Paragraphs 5 to 18 above should provide periodic information or reports on its activities to the ministry of labour or the other comparable body referred to in Paragraph 19, as well as to employers' and workers' organisations.

(2) Such information or reports should be of a technical nature, include appropriate statistics, and indicate the problems encountered and if possible the results achieved in such a manner as to permit an evaluation of present trends and foreseeable future developments in areas of major concern to the system of labour administration.

(3) The system of labour administration should evaluate, publish and disseminate such information of general interest on labour matters as it is able to derive from its operation.



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(4) Members, in consultation with the International Labour Office, should seek to promote the establishment of suitable models for the publication of such information, with a view to improving its international comparability.

21. The structures of the national system of labour administration should be kept constantly under review, in consultation with the most representative organisations of employers and workers.

*Resources and Staff*

22. (1) 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.

(2) In this connection, due account should be taken of--

- (a) the importance of the duties to be performed;
- (b) the material means placed at the disposal of the staff;
- (c) the practical conditions under which the various functions must be carried out in order to be effective.

23. (1) The staff of the labour administration system should receive initial and further training at levels suitable for their work; there should be permanent arrangements to ensure that such training is available to them throughout their careers.

(2) Staff in particular services should have the special qualifications required for such services, ascertained in a manner determined by the appropriate body.

24. Consideration should be given to supplementing national programmes and facilities for the training envisaged in Paragraph 23 above by international co-operation in the form of exchanges of experience and information and of common initial and further training programmes and facilities, particularly at the regional level.

*Internal Organisation*

25. (1) The system of labour administration should normally comprise specialised units to deal with each of the major programmes of labour administration the management of which is entrusted to it by national laws or regulations.

(2) For example, there might be units for such matters as the formulation of standards relating to working conditions and terms of employment; labour inspection; labour relations; employment, manpower planning and human resources development; international labour affairs; and, as appropriate, social security, minimum wage legislation and questions relating to specific categories of workers.

*Field Services*

26. (1) There should be appropriate arrangements for the effective organisation and operation of the field services of the system of labour administration.

(2) In particular, these arrangements should--

- (a) ensure that the placing of field services corresponds to the needs of the various areas, the representative organisations of employers and workers concerned being consulted thereon;

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- (b) provide field services with adequate staff, equipment and transport facilities for the effective performance of their duties;
  - (c) ensure that field services have sufficient and clear instructions to preclude the possibility of laws and regulations being differently interpreted in different areas.

## 9. **Convention No. 160, Labour Statistics, 1985**

Convention concerning Labour Statistics  
(Note: Date of coming into force: 24.04.1988)  
Convention: C160  
Place: Geneva  
Session of the Conference: 71  
Date of adoption: 25.06.1985  
Subject classification: Labour Statistics  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-first Session on 7 June 1985, and

Having decided upon the adoption of certain proposals with regard to the revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), which is the fifth item on the agenda of the session, and

Considering that these proposals should take the form of an international Convention,

adopts this twenty-fifth day of June of the year one thousand nine hundred and eighty-five the following Convention, which may be cited as the Labour Statistics Convention, 1985:

### I. GENERAL PROVISIONS

#### *Article 1*

Each Member which ratifies this Convention undertakes that it will regularly collect, compile and publish basic labour statistics, which shall be progressively expanded in accordance with its resources to cover the following subjects:

- (a) economically active population, employment, where relevant unemployment, and where possible visible underemployment;
- (b) structure and distribution of the economically active population, for detailed analysis and to serve as benchmark data;
- (c) average earnings and hours of work (hours actually worked or hours paid for) and, where appropriate, time rates of wages and normal hours of work;
- (d) wage structure and distribution;
- (e) labour cost;
- (f) consumer price indices;
- (g) household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income;

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- (h) occupational injuries and, as far as possible, occupational diseases; and
  - (i) industrial disputes.

*Article 2*

In designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics required under this Convention, Members shall take into consideration the latest standards and guidelines established under the auspices of the International Labour Organisation.

*Article 3*

In designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics required under this Convention, the representative organisations of employers and workers, where they exist, shall be consulted with a view to taking into account their needs and to ensuring their co-operation.

*Article 4*

Nothing in this Convention shall impose an obligation to publish or reveal data which could result in the disclosure in any way of information relating to an individual statistical unit, such as a person, a household, an establishment or an enterprise.

*Article 5*

Each Member which ratifies this Convention undertakes to communicate to the International Labour Office, as soon as practicable, the published statistics compiled in pursuance of the Convention and information concerning their publication, in particular-

- (a) the reference information appropriate to the means of dissemination used (titles and reference numbers in the case of printed publications and the equivalent descriptions in the case of data disseminated in other forms); and
- (b) the most recent dates or periods for which the different types of statistics are available, and the dates of their publication or release.

*Article 6*

Detailed descriptions of the sources, concepts, definitions and methodology used in collecting and compiling statistics in pursuance of this Convention shall be:

- (a) produced and updated to reflect significant changes;
- (b) communicated to the International Labour Office as soon as practicable; and
- (c) published by the competent national body.

## II. BASIC LABOUR STATISTICS

*Article 7*

Current statistics of the economically active population, employment, where relevant unemployment, and where possible visible underemployment, shall be compiled in such a way as to be representative of the country as a whole.

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*Article 8*

Statistics of the structure and distribution of the economically active population shall be compiled in such a way as to be representative of the country as a whole, for detailed analysis and to serve as benchmark data.

*Article 9*

1. Current statistics of average earnings and hours of work (hours actually worked or hours paid for) shall be compiled covering all important categories of employees and all important branches of economic activity, and in such a way as to be representative of the country as a whole.

2. Where appropriate, statistics of time rates of wages and normal hours of work shall be compiled covering important occupations or groups of occupations in important branches of economic activity, and in such a way as to be representative of the country as a whole.

*Article 10*

Statistics of wage structure and distribution shall be compiled covering employees in important branches of economic activity.

*Article 11*

Statistics of labour cost shall be compiled covering important branches of economic activity. Where possible, these statistics shall be consistent with data on employment and hours of work (hours actually worked or hours paid for) of the same scope.

*Article 12*

Consumer price indices shall be computed in order to measure variations over time in the prices of items representative of the consumption patterns of significant population groups or of the total population.

*Article 13*

Statistics of household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income shall be compiled covering all types and sizes of private households or families, and in such a way as to be representative of the country as a whole.

*Article 14*

1. Statistics of occupational injuries shall be compiled in such a way as to be representative of the country as a whole, covering, where possible, all branches of economic activity.

2. As far as possible, statistics of occupational diseases shall be compiled covering all branches of economic activity, and in such a way as to be representative of the country as a whole.

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*Article 15*

Statistics of industrial disputes shall be compiled in such a way as to be representative of the country as a whole, covering, where possible, all branches of economic activity.

III. ACCEPTANCE OF OBLIGATIONS

*Article 16*

1. Each Member which ratifies this Convention shall, in pursuance of the general obligations referred to in Part I, accept the obligations of the Convention in respect of one or more of the Articles of Part II.

2. Each Member shall specify in its ratification the Article or Articles of Part II in respect of which it accepts the obligations of this Convention.

3. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of one or more of the Articles of Part II which were not already specified in its ratification. These notifications shall have the force of ratification as from the date of their communication.

4. Each Member which has ratified this Convention shall state, in its reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, the position of its law and practice on the subjects covered by the Articles of Part II in respect of which it has not accepted the obligations of the Convention and the extent to which effect is given or is proposed to be given to the Convention in respect of such subjects.

*Article 17*

1. A Member may limit initially the scope of the statistics referred to in the Article or Articles of Part II in respect of which it has accepted the obligations of this Convention to specified categories of workers, sectors of the economy, branches of economic activity or geographical areas.

2. Each Member which limits the scope of the statistics in pursuance of paragraph 1 of this Article shall indicate in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, the Article or Articles of Part II to which the limitation applies, stating the nature of and reasons for such limitation, and shall state in subsequent reports the extent to which it has been possible or it is proposed to extend the scope to other categories of workers, sectors of the economy, branches of economic activity or geographical areas.

3. After consulting the representative organisations of employers and workers concerned, a Member may, by a declaration communicated to the Director-General of the International Labour Office in the month following each anniversary of the coming into force of the Convention, introduce subsequent limitations on the technical scope of the statistics covered by the Article or Articles of Part II in respect of which it has accepted the obligations of the Convention. Such declarations shall take effect one year after the date on which they are registered. Each Member which introduces such limitations shall provide in its reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation the particulars referred to in paragraph 2 of this Article.

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*Article 18*

This Convention revises the Convention concerning Statistics of Wages and Hours of Work, 1938.

IV. FINAL PROVISIONS

*Article 19*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 20*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any member twelve months after the date on which its ratification has been registered.

*Article 21*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

3. After consulting the representative organisations of employers and workers concerned, a Member which has ratified this Convention may, after the expiration of five years from the date on which the Convention first comes into force, by a declaration communicated to the Director-General of the International Labour Office, withdraw its acceptance of the obligations of the Convention in respect of one or more of the Articles of Part II, provided that it maintains its acceptance of these obligations in respect of at least one of these Articles. Such withdrawal shall not take effect until one year after the date on which it was registered.

4. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of five years mentioned in paragraph 3 of this Article, exercise the right of withdrawal provided for in that paragraph, shall be bound by the Articles of Part II in respect of which it has accepted the obligations of the Convention for another period of five years and, thereafter, may withdraw its acceptance of these obligations at the expiration of each period of five years under the terms provided for in this Article.

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*Article 22*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisations.

2. When notifying the Members of the Organisations of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation of the date upon which the Convention will come into force.

*Article 23*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 24*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 25*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 21 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 26*

The English and French versions of the text of this Convention are equally authoritative.

**10. Recommendation No. 170, Labour Statistics, 1985**

Recommendation concerning Labour Statistics Recommendation: R170 Place: Geneva Session of the Conference: 71 Date of adoption: 25.06.1985 Subject classification: Labour Statistics Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Seventy-first Session on 7 June 1985, and

Recognising the need for reliable labour statistics both in developed and in developing countries, particularly for the purposes of planning and monitoring social and economic progress, as well as for industrial relations,

Having decided upon the adoption of certain proposals with regard to the revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Statistics Convention, 1985,

adopts this twenty-fifth day of June of the year one thousand nine hundred and eighty-five, the following Recommendation, which may be cited as the Labour Statistics Recommendation, 1985:

## I. BASIC LABOUR STATISTICS

### *Statistics of the Economically Active Population, Employment, Unemployment and Underemployment*

1. (1) Current statistics of the economically active population, employment, where relevant unemployment, and where possible visible underemployment should be compiled at least once a year.

(2) These statistics should be classified according to sex and, where possible, age group and branch of economic activity.

2. (1) With a view to meeting long-term needs for detailed analysis and for benchmark purposes, statistics of the structure and distribution of the economically active population should be compiled at least once every ten years.

(2) These statistics should be classified at least according to sex, age group, occupational group or level of qualifications, branch of economic activity, geographical area and status in employment (such as employer, own-account worker, employee, unpaid family worker, member of producers' co-operative).

### *Statistics of Wages and Hours of Work*

3. (1) Current statistics of average earnings and hours of work (hours actually worked or hours paid for) should be compiled at least once a year.

(2) These statistics should be classified at least according to branch of economic activity and sex, where relevant according to size of establishment and geographical area and, where possible, age group and occupational group or level of qualifications.

4. (1) Where appropriate, current statistics of time rates of wages and normal hours of work should be compiled at least once a year.

(2) These statistics should be classified at least according to branch of economic activity and, where relevant, according to sex, age group, occupation or occupational group or level of qualifications, size of establishment and geographical area.



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5. (1) With a view to meeting long-term needs for detailed analysis and for benchmark purposes, statistics of wage structure and distribution should be compiled at regular intervals, if possible once every five years.

(2) These statistics should provide -

- (a) data on earnings and hours of work (hours actually worked or hours paid for) classified at least according to sex, age group, occupation or occupational group or level of qualifications, branch of economic activity, size of establishment and geographical area;
- (b) detailed data on the composition of earnings (such as basic pay, premium pay for overtime, remuneration for time not worked and bonuses and gratuities) and of hours of work (hours actually worked or hours paid for); and
- (c) data on the distribution of employees according to levels of earnings and hours of work (hours actually worked or hours paid for), classified according to important characteristics of employees, such as sex and age group.

6. (1) With a view to meeting long-term needs, statistics of labour cost should be compiled at least once every five years.

(2) These statistics should provide data on the level and composition of labour cost, classified according to branch of economic activity.

#### *Consumer Price Indices*

7. (1) A general consumer price index should be computed and published for significant population groups or for the total population, covering all groups of consumption items.

(2) Consumer price indices should be published separately for important groups of consumption items, such as food, drink and tobacco; clothing and footwear; housing; fuel and lighting; and other significant categories.

8. The consumer price indices should be computed and published, if possible once a month, but at least once every three months.

9. The weights used to compute the consumer price indices should be reviewed at least once every ten years, and adjusted when significant changes in the consumption patterns are revealed.

10. The prices used to compute the consumer price indices should be representative of the respective purchasing habits (for example, regarding outlets and the nature and quality of articles) of the population groups concerned.

#### *Statistics of Household Expenditure and Household Income*

11. (1) Statistics of household expenditure or, where appropriate, family expenditure and, where possible, household income or, where appropriate, family income, should be compiled at least once every ten years.

(2) These statistics should provide, inter alia, in respect of households or families as the case may be -

- (a) detailed data on expenditure;

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- (b) where possible, detailed data on income according to level and source of income;
  - (c) detailed data on their composition, according to sex, age group and other significant characteristics of their members; and
  - (d) data on expenditure and, where possible, income, classified according to their size and type, expenditure class and, where possible, income class.

*Statistics of Occupational Injuries and Occupational Diseases*

12. (1) Statistics of occupational injuries should be compiled at least once a year.

(2) These statistics should be classified at least according to branch of economic activity and, as far as possible, according to significant characteristics of employees (such as sex, age group and occupation or occupational group or level of qualifications) and of establishments.

13. (1) As far as possible, statistics of occupational diseases should be compiled at least once a year.

(2) These statistics should be classified at least according to branch of economic activity and, as far as possible, according to significant characteristics of employees (such as sex, age group and occupation or occupational group or level of qualifications) and of establishments.

*Statistics of Industrial Disputes*

14. (1) Statistics of industrial disputes should be compiled at least once a year.

(2) These statistics should be classified at least according to branch of economic activity.

*Statistics of Productivity*

15. Statistics of productivity should be progressively developed and compiled covering important branches of economic activity.

## II. STATISTICAL INFRASTRUCTURE

16. For the purposes of collecting and compiling the labour statistics in pursuance of Part I of this Recommendation, Members should progressively develop the appropriate national statistical infrastructure. The major elements of such an infrastructure should include -

- (a) a comprehensive and up-to-date register of establishments or enterprises for the purposes of surveys or censuses; such a register should be sufficiently detailed to permit the selection of samples of establishments or enterprises;
- (b) a co-ordinated system for the implementation of surveys or censuses of establishments or enterprises;
- (c) a capability for the implementation of a continuous and co-ordinated series of national surveys of households or individuals; and
- (d) access for statistical purposes, with appropriate safeguards for their confidential use, to administrative records (such as those of employment services, social security bodies, labour inspection services).

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17. Members should establish appropriate national standard classifications, and should encourage and co-ordinate the observance as far as possible of these classifications by all bodies concerned.

18. Members should take the necessary steps to harmonise the statistics compiled in pursuance of this Recommendation from different sources and by different bodies.

19. (1) In designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics provided for in this Recommendation, Members should take into consideration the international recommendations on labour statistics established under the auspices of the International Labour Organisation, and relevant recommendations of other competent international organisations.

(2) Members should review and, if appropriate, revise or update the concepts, definitions and classifications used in compiling labour statistics in pursuance of this Recommendation when the relevant international standards and guide-lines are revised, or when new ones are established.

20. In designing or revising the concepts, definitions and methodology used in the collection, compilation and publication of the statistics provided for in the Labour Statistics Convention, 1985, and in this Recommendation, Members might seek assistance from the International Labour Office.

## **11. Recommendation No. 198, Employment Relationship, 2006**

Recommendation concerning the employment relationship Recommendation: R198 Place: Geneva Session of the Conference: 95 Date of adoption: 15.06.2006 Subject classification: Employment Services - Job Placement Subject: <b>Employment policy and Promotion</b>
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The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006, and

Considering that there is protection offered by national laws and regulations and collective agreements which are linked to the existence of an employment relationship between an employer and an employee, and

Considering that laws and regulations, and their interpretation, should be compatible with the objectives of decent work, and

Considering that employment or labour law seeks, among other things, to address what can be an unequal bargaining position between parties to an employment relationship, and

Considering that the protection of workers is at the heart of the mandate of the International Labour Organization, and in accordance with principles set out in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and the Decent Work Agenda, and

Considering the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties

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concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application, and

Noting that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due, and

Recognizing that there is a role for international guidance to Members in achieving this protection through national law and practice, and that such guidance should remain relevant over time, and

Further recognizing that such protection should be accessible to all, particularly vulnerable workers, and should be based on law that is efficient, effective and comprehensive, with expeditious outcomes, and that encourages voluntary compliance, and

Recognizing that national policy should be the result of consultation with the social partners and should provide guidance to the parties concerned in the workplace, and

Recognizing that national policy should promote economic growth, job creation and decent work, and

Considering that the globalized economy has increased the mobility of workers who are in need of protection, at least against circumvention of national protection by choice of law, and

Noting that, in the framework of transnational provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is, and

Considering that the difficulties in establishing the existence of an employment relationship may create serious problems for those workers concerned, their communities, and society at large, and

Considering that the uncertainty as to the existence of an employment relationship needs to be addressed to guarantee fair competition and effective protection of workers in an employment relationship in a manner appropriate to national law or practice, and

Noting all relevant international labour standards, especially those addressing the particular situation of women, as well as those addressing the scope of the employment relationship, and

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

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

adopts this fifteenth day of June of the year two thousand and six the following Recommendation, which may be cited as the Employment Relationship Recommendation, 2006.

[...]

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## II. DETERMINATION OF THE EXISTENCE OF AN EMPLOYMENT RELATIONSHIP

[...]

16. In regard to the employment relationship, national labour administrations and their associated services should regularly monitor their enforcement programmes and processes. Special attention should be paid to occupations and sectors with a high proportion of women workers.

[...]

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## Labour Inspection

### 1. **Recommendation No. 5, (Withdrawn) Labour Inspection (Health Services), 1919**

Recommendation concerning the Establishment of Government Health Services  
Recommendation: R005  
Place: Washington  
Session of the Conference: 1  
Date of adoption: 28.11.1919  
Subject classification: Labour Inspection  
Subject: **Labour Administration and Inspection**

Withdrawal of the Labour Inspection (Health Services) Recommendation, 1919

The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and Following consideration of the proposal for the withdrawal of several international labour Recommendations, which is the seventh item on the agenda of this session, decides this day of June of the year two thousand and two to withdraw the Labour Inspection (Health Services) Recommendation, 1919 (No. 5). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

The General Conference of the International Labour Organisation,

Having been convened at Washington by the Government of the United States of America on the 29 October 1919, and

Having decided upon the adoption of certain proposals with regard to women's employment: unhealthy processes, which is part of the third item in the agenda for the Washington meeting of the Conference, and

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

adopts the following Recommendation, which may be cited as the Labour Inspection (Health Services) Recommendation, 1919, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

The General Conference recommends that each Member of the International Labour Organisation which has not already done so should establish as soon as possible, not only a system of efficient factory inspection, but also in addition thereto a Government service especially charged with the duty of safeguarding the health of the workers, which will keep in touch with the International Labour Office.

### 2. **Recommendation No. 20, Labour Inspection, 1923**

Recommendation concerning the General Principles for the Organisation of Systems of Inspection to Secure the Enforcement of the Laws and Regulations for the Protection of the Workers  
Recommendation: R020  
Place: Geneva  
Session of the Conference: 5  
Date of adoption: 29.10.1923  
Subject classification: Labour Inspection  
Subject: **Labour Administration and Inspection**

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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifth Session on 22 October 1923, and

Having decided upon the adoption of certain proposals with regard to the general principles for the organisation of factory inspection, the question forming the agenda of the Session, and

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

adopts this twenty-ninth day of October of the year one thousand nine hundred twenty-three, the following Recommendation, which may be cited as the Labour Inspection Recommendation, 1923, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

Whereas the Constitution of the International Labour Organisation includes among the methods and principles of special and urgent importance for the physical, moral and intellectual welfare of the workers the principle that each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the workers;

Whereas the resolutions adopted at the First Session of the International Labour Conference concerning certain countries where special conditions prevail involve the creation by these countries of an inspection system if they do not already possess such a system;

Whereas the necessity of organising a system of inspection becomes especially urgent when Conventions adopted at sessions of the Conference are being ratified by Members of the Organisation and put into force;

Whereas while the institution of an inspection system is undoubtedly to be recommended as one of the most effective means of ensuring the enforcement of Conventions and other engagements for the regulation of labour conditions, each Member is solely responsible for the execution of Conventions to which it is a party in the territory under its sovereignty or its authority and must accordingly itself determine in accordance with local conditions what measures of supervision may enable it to assume such a responsibility;

Whereas, in order to put the experience already gained at the disposal of the Members with a view to assisting them in the institution or reorganisation of their inspection system, it is desirable to indicate the general principles which practice shows to be the best calculated to ensure uniform, thorough and effective enforcement of Conventions and more generally of all measures for the protection of workers; and

Having decided to leave to each country the determination of how far these general principles should be applied to certain spheres of activity;

And taking as a guide the long experience already acquired in factory inspection;

The General Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration:

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## I. SPHERE OF INSPECTION

1. That it should be the principal function of the system of inspection which should be instituted by each Member in accordance with the ninth principle of article 41 of the Constitution of the International Labour Organisation to secure the enforcement of the laws and regulations relating to the conditions of work and the protection of the workers while engaged in their work (hours of work and rest; night work; prohibition of the employment of certain persons on dangerous, unhealthy or physically unsuitable work; health and safety, etc.).<sup>15</sup>

2. That, in so far as it may be considered possible and desirable, either for reasons of convenience in the matter of supervision or by reason of the experience which they gain in carrying out their principal duties, to assign to inspectors additional duties which may vary according to the conceptions, traditions and customs prevailing in the different countries, such duties may be assigned, provided:

- (a) that they do not in any way interfere with the inspectors' principal duties;
- (b) that in themselves they are closely related to the primary object of ensuring the protection of the health and safety of the workers;
- (c) that they shall not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

## II. NATURE OF THE FUNCTIONS AND POWERS OF INSPECTORS

### A. General

3. That inspectors provided with credentials should be empowered by law:

- (a) to visit and inspect, at any hour of the day or night, places where they may have reasonable cause to believe that persons under the protection of the law are employed, and to enter by day any place which they may have reasonable cause to believe to be an establishment, or part thereof, subject to their supervision; provided that, before leaving, inspectors should, if possible, notify the employer or some representative of the employer of their visit;
- (b) to question, without witnesses, the staff belonging to the establishment, and, for the purpose of carrying out their duties, to apply for information to any other persons whose evidence they may consider necessary, and to require to be shown any registers or documents which the laws regulating conditions of work require to be kept.

4. That inspectors should be bound by oath, or by any method which conforms with the administrative practice or customs in each country, not to disclose, on pain of legal penalties or suitable disciplinary measures, manufacturing secrets, and working processes in general, which may come to their knowledge in the course of their duties.

5. That, regard being had to the administrative and judicial systems of each country, and subject to such reference to superior authority as may be considered necessary,

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<sup>15</sup> This Paragraph refers to the Constitution of the International Labour Organisation prior to its amendment in 1946. The Constitution as amended in 1946 contains no specific reference to the setting up of a system of labour inspection. See, however, the provisions of the Labour Inspection Convention, 1947 (No. 81).



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inspectors should be empowered to bring breaches of the laws, which they ascertain, directly before the competent judicial authorities;

That in countries where it is not incompatible with their system and principles of law, the reports drawn up by the inspectors shall be considered to establish the facts stated therein in default of proof to the contrary.

6. That the inspectors should be empowered, in cases where immediate action is necessary to bring installation or plant into conformity with laws and regulations, to make an order (or, if that procedure should not be in accordance with the administrative or judicial systems of the country, to apply to the competent authorities for an order) requiring such alterations to the installation or plant to be carried out within a fixed time as may be necessary for securing full and exact observance of the laws and regulations relating to the health and safety of the workers;

That in countries where the inspector's order has executive force of itself, its execution should be suspended only by appeal to a higher administrative or judicial authority, but in no circumstances should provisions intended to protect employers against arbitrary action prejudice the taking of measures with a view to the prevention of imminent danger which has been duly shown to exist.

#### *B. Safety*

7. Having regard to the fact that, while it is essential that the inspectorate should be invested with all the legal powers necessary for the performance of its duties, it is equally important, in order that inspection may progressively become more effective, that, in accordance with the tendency manifested in the oldest and most experienced countries, inspection should be increasingly directed towards securing the adoption of the most suitable safety methods for preventing accidents and diseases with a view to rendering work less dangerous, more healthy, and even less exhausting, by the intelligent understanding, education, and co-operation of all concerned, it would appear that the following methods are calculated to promote this development in all countries:

- (a) that all accidents should be notified to the competent authorities, and that one of the essential duties of the inspectors should be to investigate accidents, and more especially those of a serious or recurring character, with a view to ascertaining by what measures they can be prevented;
- (b) that inspectors should inform and advise employers respecting the best standards of health and safety;
- (c) that inspectors should encourage the collaboration of employers, managing staff and workers for the promotion of personal caution, safety methods, and the perfecting of safety equipment;
- (d) that inspectors should endeavour to promote the improvement and perfecting of measures of health and safety, by the systematic study of technical methods for the internal equipment of undertakings, by special investigations into problems of health and safety, and by any other means;
- (e) that in countries where it is considered preferable to have a special organisation for accident insurance and prevention completely independent of the inspectorate, the special officers of such organisations should be guided by the foregoing principles.

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### III. ORGANISATION OF INSPECTION

#### *A. Organisation of the Staff*

8. That, in order that the inspectors may be as closely as possible in touch with the establishments which they inspect and with the employers and workers, and in order that as much as possible of the inspectors' time may be devoted to the actual visiting of establishments, they should be localised, when the circumstances of the country permit, in the industrial districts.

9. That, in countries, which for the purposes of inspection are divided into districts, in order to secure uniformity in the application of the law as between district and district and to promote a high standard of efficiency of inspection, the inspectors in the districts should be placed under the general supervision of an inspector of high qualifications and experience. Where the importance of the industries of the country is such as to require the appointment of more than one supervising inspector, the supervising inspectors should meet from time to time to confer on questions arising in the divisions under their control in connection with the application of the law and the improvement of industrial conditions.

10. That the inspectorate should be placed under the direct and exclusive control of a central State authority and should not be under the control of or in any way responsible to any local authority in connection with the execution of any of their duties.

11. That, in view of the difficult scientific and technical questions which arise under the conditions of modern industry in connection with processes involving the use of dangerous materials, the removal of injurious dust and gases, the use of electrical plant and other matters, it is essential that experts having competent medical, engineering, electrical or other scientific training and experience should be employed by the State for dealing with such problems.

12. That, in conformity with the principle contained in Article 41 of the Constitution of the International Labour Organisation, the inspectorate should include women as well as men inspectors; that, while it is evident that with regard to certain matters and certain classes of work, inspection can be more suitably carried out by men, as in the case of other matters and other classes of work inspection can be more suitably carried out by women, the women inspectors should in general have the same powers and duties and exercise the same authority as the men inspectors, subject to their having had the necessary training and experience, and should have equal opportunity of promotion to the higher ranks.<sup>16</sup>

#### *B. Qualifications and Training of Inspectors*

13. That, in view of the complexity of modern industrial processes and machinery, of the character of the executive and administrative functions entrusted to the inspectors in connection with the application of the law and of the importance of their relations to employers and workers and employers' and workers' organisations and to the judicial and local authorities, it is essential that the inspectors should in general possess a high standard of technical training and experience, should be persons of good general education, and by their character and abilities be capable of acquiring the confidence of all parties.

14. That the inspectorate should be on a permanent basis and should be independent of changes of Government; that the inspectors should be given such a status and standard

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<sup>16</sup> This Paragraph refers to the Constitution of the International Labour Organisation prior to its amendment in 1946. The Constitution as amended in 1946 contains no specific reference to the participation of women inspectors in the work of the inspectorate. See, however, Article 8 of the Labour Inspection Convention, 1947 (No. 81).

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of remuneration as to secure their freedom from any improper external influences and that they should be prohibited from having any interest in any establishment which is placed under their inspection.

15. That inspectors on appointment should undergo a period of probation for the purpose of testing their qualifications and training them in their duties, and that their appointment should only be confirmed at the end of that period if they have shown themselves fully qualified for the duties of an inspector.

16. That, where countries are divided for the purposes of inspection into districts, and especially where the industries of the country are of a varied character, it is desirable that inspectors, more particularly during the early years of their service, should be transferred from district to district at appropriate intervals in order to obtain a full experience of the work of inspection.

### *C. Standards and Methods of Inspection*

17. That, as under a system of State inspection the visits of the inspectors to any individual establishment must necessarily be more or less infrequent, it is essential:

(1) (a) That the principle should be laid down and maintained that the employer and the officials of the establishment are responsible for the observance of the law, and are liable to be proceeded against in the event of deliberate violation of or serious negligence in observing the law, without previous warning from the inspector; it is understood that the foregoing principle does not apply in special cases where the law provides that notice shall be given in the first instance to the employer to carry out certain measures.

(b) That, as a general rule, the visits of the inspectors should be made without any previous notice to the employer.

(2) It is desirable that adequate measures should be taken by the State to ensure that employers, officials and workers are acquainted with the provisions of the law and the measures to be taken for the protection of the health and safety of the workers, as, for example, by requiring the employer to post in his establishment an abstract of the requirements of the law.

18. That, while it is recognised that very wide differences exist between the size and importance of one establishment and another, and that there may be special difficulties in countries or areas of a rural character where factories are widely scattered, it is desirable that, as far as possible, every establishment should be visited by an inspector for the purposes of general inspection not less frequently than once a year, in addition to any special visits that may be made for the purpose of investigating a particular complaint or for other purposes; and that large establishments and establishments of which the management is unsatisfactory from the point of view of the protection of the health and safety of the workers, and establishments in which dangerous or unhealthy processes are carried on, should be visited much more frequently. It is desirable that, when any serious irregularity has been discovered in an establishment, it should be revisited by the inspector at an early date with a view to ascertaining whether the irregularity has been remedied.

### *D. Co-operation of Employers and Workers*

19. That it is essential that the workers and their representatives should be afforded every facility for communicating freely with the inspectors as to any defect or breach of the law in the establishment in which they are employed; that every such complaint should as far as possible be investigated promptly by the inspector; that the complaint should be treated as absolutely confidential by the inspector and that no intimation even should be

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given to the employer or his officials that the visit made for the purpose of investigation is being made in consequence of the receipt of a complaint.

20. That, with a view to securing full co-operation of the employers and workers and their respective organisations in promoting a high standard in regard to the conditions affecting the health and safety of the workers, it is desirable that the inspectorate should confer from time to time with the representatives of the employers' and workers' organisations as to the best measures to be taken for this purpose.

#### IV. INSPECTORS' REPORTS

21. That inspectors should regularly submit to their central authority reports framed on uniform lines dealing with their work and its results, and that the said authority should publish an annual report as soon as possible and in any case within one year after the end of the year to which it relates, containing a general survey of the information furnished by the inspectors; that the calendar year should be uniformly adopted for these reports.

22. That the annual general report should contain a list of the laws and regulations relating to conditions of work made during the year which it covers.

23. That this annual report should also give the statistical tables necessary in order to provide all information on the organisation and work of the inspectorate and on the results obtained. The information supplied should as far as possible state:

- (a) the strength and organisation of the staff of the inspectorate;
- (b) the number of establishments covered by the laws and regulations, classified by industries and indicating the number of workers employed (men, women, young persons, children);
- (c) the number of visits of inspection made for each class of establishment with an indication of the number of workers employed in the establishments inspected (the number of workers being taken to be the number employed at the time of the first visit of the year), and the number of establishments inspected more than once during the year;
- (d) the number of and nature of breaches of the laws and regulations brought before the competent authorities and the number and nature of the convictions by the competent authority;
- (e) the number, nature and the cause of accidents and occupational diseases notified, tabulated according to class of establishment.

### 3. *Recommendation No. 28, Labour Inspection (Seamen), 1926*

Recommendation concerning the General Principles for the Inspection of the Conditions of Work of Seamen Recommendation: R028 Place: Geneva Session of the Conference: 9 Date of adoption: 22.06.1926 Subject classification: Seafarers Subject: <b>Seafarers</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninth Session on 7 June 1926, and

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Having decided upon the adoption of certain proposals with regard to the general principles for the inspection of the conditions of work of seamen, the question forming the second item on the agenda of the Session, and

Having determined that these proposals should take the form of a Recommendation,

adopts this twenty-second day of June of the year one thousand nine hundred twenty-six, the following Recommendation, which may be cited as the Labour Inspection (Seamen) Recommendation, 1926, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

Whereas among the methods and principles of special and urgent importance for the physical, moral and intellectual welfare of the workers, the Constitution of the International Labour Organisation makes it a duty of the International Labour Organisation to devote special attention to the inspection of conditions of work in order to ensure the enforcement of the laws and regulations for the protection of the workers;

Whereas the International Labour Conference at its Fifth Session (October 1923) adopted a Recommendation concerning the general principles for the organisation of systems of inspection to secure the enforcement of the laws and regulations for the protection of the workers;

Whereas that Recommendation is based essentially on the experience gained in the inspection of industrial establishments and it would be particularly difficult to apply or even to adapt it to the work of seamen, the nature and conditions of which are essentially different from those of work in a factory;

Whereas the inspection of the conditions under which seamen work will increase in importance in proportion as legislation for the protection of seamen is developed in the different countries and as further conventions concerning the working conditions of seamen are adopted by the Conference;

Whereas for the foregoing reasons it is desirable, in order to place the experience already gained at the disposal of the Members with a view to assisting them in the institution or reorganisation of their systems of inspection of the conditions under which seamen work, to indicate the general principles which practice shows to be best calculated to ensure the enforcement of measures for the protection of seamen;

The General Conference therefore recommends that each Member of the Organisation should take the following principles into consideration:

#### I. SCOPE OF INSPECTION

1. That the principal duty of the authority or authorities responsible in each country for the inspection of the conditions under which seamen work should be to secure the enforcement of all laws and regulations dealing with such conditions and the protection of seamen in the exercise of their profession;

2. That, in so far as it may be considered desirable and possible, by reason of the experience they gain in carrying out their principal duties, to entrust the inspecting authorities with other secondary duties of a social nature which may vary according to the conceptions, customs, or traditions prevailing in the different countries, such duties may be assigned to them in addition to their principal duties on condition that--

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- (a) they do not in any way interfere with the performance of the inspectors' principal duties;
  - (b) they do not in any way prejudice the authority and impartiality which are necessary to inspectors in their relations with shipowners and seamen.

## II. ORGANISATION OF INSPECTION

The Conference recommends:

3. That, wherever it is compatible with administrative practice and in order to secure the greatest possible uniformity in the enforcement of the laws and regulations relating to the conditions under which seamen work, the different services or bodies responsible for supervising the enforcement of such laws and regulations should be centralised under a single authority;

4. That, if existing administrative practice will not admit of such centralisation of supervision, the different services or authorities whose functions are wholly or partly concerned with the protection of seamen should be enabled to benefit by one another's experience and to regulate their methods of work according to such common principles as may be considered the most effective;

5. That for this purpose close liaison and constant collaboration should be established between these different services or authorities, so far as is compatible with administrative practice and by the means considered the most suitable in each country (exchange of reports and information, periodical conferences, etc.); and

6. That the different services or authorities responsible for supervising the conditions under which seamen work should keep in touch with the authorities responsible for factory inspection, in matters of mutual concern.

## III. REPORTS OF THE INSPECTION AUTHORITIES

The Conference recommends:

7. That an annual general report on the supervision of the conditions under which seamen work should be published by the central authority or by the collaboration of the different authorities responsible for carrying out such supervision;

8. That this annual report should contain a list of the national laws and regulations affecting the conditions under which seamen work and their supervision, together with any amendments thereto, which have come into operation during the year;

9. That it should also contain statistical tables with the necessary comments on the organisation and work of inspection and giving information, as far as may be possible and compatible with national administrative practice, on the following points:

- (a) the number of vessels in commission subject to the various forms of inspection, the vessels being classified according to type (mechanically propelled vessels and sailing vessels) and each category being subdivided according to the purpose for which these vessels are used;
- (b) the number of seamen actually engaged on board the vessels of each class;
- (c) the number of vessels visited by the inspectors with an indication of the strength of the crews;

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- (d) the number and nature of breaches of the law or regulations ascertained by the inspectors and of the penalties imposed;
  - (e) the number, nature, and causes of accidents occurring to seamen during their work;
  - (f) the means adopted for the enforcement of the provisions of international labour Conventions which relate to the conditions under which seamen work, and the extent of the compliance with such provisions, either in the form of the annual report transmitted to the International Labour Office under Article 22 of the Constitution of the International Labour Organisation or in some other appropriate form.

#### IV. RIGHTS, POWERS AND DUTIES OF INSPECTORS

##### *A. Rights of inspection*

The Conference recommends:

10. That the inspection authorities, on proof of their identity, should be empowered by national law:

- (a) to visit without previous notice any vessel flying the national flag by day or by night, in national or foreign territorial waters, and, in exceptional cases fixed by national law and by authorisation of the maritime authority, at sea, provided, however, that the time and manner of such visits should in practice be fixed so as to avoid as far as possible any serious inconvenience to the working of the vessel;
- (b) to question without witnesses the crew and any other persons whose evidence may be considered desirable, to make enquiries which may be judged necessary, and to require production of any of the ship's papers or documents which the laws or regulations require to be kept in so far as such papers or documents relate to the matters subject to inspection;

11. That national law should provide that the inspectors should be bound by oath, or by any other method which conforms with the administrative practice or customs in each country, not to disclose commercial secrets which may come to their knowledge in the course of their duties, under pain of criminal penalties or appropriate disciplinary measures.

##### *B. Compulsory powers*

The Conference recommends:

12. That the inspection authorities should be empowered, in serious cases where the health or safety of the crew is endangered, to prohibit by proper authorisation of the maritime authority a vessel from leaving port until the necessary measures have been taken on board to comply with the law, subject to appeal to higher administrative authority or to the court of competent jurisdiction, according to the law in the different countries;

13. That prohibiting a vessel from leaving port should be considered a measure of exceptional gravity, which should only be employed as a last resort when the other legal means at the disposal of the inspection authority to ensure respect for the law have been used without effect;

14. That the inspection authorities should be empowered in special cases to issue orders for securing observance of the laws and regulations governing the conditions under

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which seamen work, subject to appeal to higher administrative authority or to the court of competent jurisdiction, according to the law in each country;

15. That the central authority should be empowered in special cases to grant exemption from any specified requirement of any law or regulation governing the conditions under which seamen work, if such authority is satisfied that that requirement has been substantially complied with, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken, or provision made, as regards the subject matter of the requirement is as effective as, or more effective than, actual compliance with the requirement.

*C. Right to call for an inspection*

The Conference recommends:

16. That national law should provide that the master of a vessel should be entitled to call for an inspection in all cases where he considers it necessary;

17. That national law should provide that the members of the crew of a vessel should also be entitled, subject to such conditions as may be prescribed, to call for an inspection on any matters relating to health, the safety of the vessel, or the rules affecting the conditions under which seamen work.

*D. Co-operation of shipowners and seamen with the inspection authorities*

The Conference recommends:

18. That, so far as is compatible with administrative practice in each country, and by such methods as may be considered most appropriate, shipowners and seamen should be called upon to co-operate in the supervision of the enforcement of the laws and regulations relating to the conditions under which seamen work.

In particular, the Conference draws the attention of the different countries to the following methods of co-operation:

- (a) it is essential that every facility should be afforded to seamen freely to bring to the notice of the inspection authorities either directly or through their duly authorised representatives any infringement of the law on board the vessel on which such seamen are employed, that the inspection authority should as far as possible promptly make an enquiry into the subject matter of any such complaint, that such complaints should be treated by the inspection authority as absolutely confidential;
- (b) with a view to ensuring complete co-operation by shipowners and seamen and their respective organisations with the inspection authorities, and in order to improve conditions affecting the health and safety of seamen, it is desirable that the inspection authorities should from time to time consult the representatives of shipowners' and seamen's organisations as to the best means of attaining these ends. It is also desirable that joint committees of shipowners and seamen should be set up, and that they should be enabled to co-operate with the different services responsible for supervising the enforcement of the laws and regulations governing the conditions under which seamen work.



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*E. Safeguards*

The Conference recommends:

19. That only such persons should be appointed inspectors as command the full confidence both of the shipowners and of the seamen, and that such persons should therefore be required to possess:

- (a) the qualities necessary to ensure absolute impartiality in the performance of their duties;
- (b) the technical qualifications necessary for the performance of their duties; It is desirable that the inspection service should include men who have served at sea whose appointment whether in a permanent or temporary capacity should be at the discretion of the administrative authority;

20. That, when necessary, inspectors should be assisted in their duties by competent experts who command the full confidence of the shipowners and seamen;

21. That inspectors should be public servants whose status renders them independent of changes of Government;

22. That they should be prohibited from having any financial interest whatsoever in the undertakings subject to their inspection.

*F. Other duties*

The Conference recommends:

23. That as, by reason of the nature of their duties, inspectors have special opportunities of observing the practical results of the operation of the laws and regulations governing the conditions under which seamen work, they should be called upon, so far as it is compatible with the administrative methods in each country, to assist in improving legislation for the protection of seamen and to give the most effectual help possible in promoting the prevention of accidents;

24. That, so far as is compatible with administrative practice in each country, they should be called upon to take part in enquiries into shipwrecks and accidents on board ship, and that they should be empowered, where necessary, to submit reports on the results of such enquiries;

25. That, so far as is compatible with the administrative methods in each country, they should be called upon to collaborate in supplying information preparatory to the drafting of laws and regulations for the protection of seamen.

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#### 4. **Recommendation No. 54, (Withdrawn) Inspection (Building), 1937**

Recommendation concerning Inspection in the Building Industry  
Recommendation: R054  
Place: Geneva  
Session of the Conference: 23  
Date of adoption: 23.06.1937  
Subject classification: Construction  
Subject: **Labour Administration and Inspection**

Withdrawal of the Inspection (Building) Recommendation, 1937

The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and Following consideration of the proposal for the withdrawal of several international labour Recommendations, which is the seventh item on the agenda of this session, decides this day of June of the year two thousand and two to withdraw the Inspection (Building) Recommendation, 1937 (No. 54). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-third Session on 3 June 1937, and

Having decided upon the adoption of certain proposals with regard to inspection in the building industry, which is included in the first item on the agenda of the Session, and

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

adopts this twenty-third day of June of the year one thousand nine hundred thirty-seven, the following Recommendation, which may be cited as the Inspection (Building) Recommendation, 1937:

Whereas the Safety Provisions (Building) Convention, 1937, and the Safety Provisions (Building) Recommendation, 1937, contain provisions relating to labour inspection;

Whereas the Conference adopted at its Fifth Session (1923) a Recommendation concerning labour inspection;

Whereas it is nevertheless desirable that as regards the building industry the attention of Members should be drawn to certain other provisions not included in the above-mentioned Convention and Recommendations;

The Conference recommends that each Member of the International Labour Organisation should take the following principles and rules into consideration as regards inspection in the building industry:

1. All work in connection with the construction, repair, alteration, maintenance and demolition of buildings of all kinds should be subject to inspection.

2. The authority responsible for inspection (hereinafter called the inspection authority) should be a public body and should have all powers necessary to ensure that the laws and regulations in force are strictly applied.

3. Inspectors should have previous technical training and have passed examinations covering all suitable technical and administrative matters which should ensure that they are

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competent to supervise effectively the enforcement of the safety regulations for the workers employed in the building industry.

4. In order to ensure effective collaboration between the inspection authority and the head of the undertaking, national laws or regulations should make the head of the undertaking responsible--

- (a) for providing for constant and adequate supervision of the work so as to ensure compliance with the safety provisions in force;
- (b) for taking all other practicable steps necessary to prevent accidents, and in particular for not employing on work likely to involve risk of accidents any person whom he knows to be deaf, of defective vision, or liable to giddiness;
- (c) for informing the inspection authority, in conformity with the national laws or regulations, of the commencement of all building operations undertaken by him; and
- (d) for reporting to the competent authority, in accordance with the national laws or regulations, accidents occurring in the undertaking.

**5. Recommendation No. 59, (Withdrawn) Labour Inspectorates (Indigenous Workers), 1939**

Recommendation concerning Labour Inspectorates for Indigenous Workers  
Recommendation: R059  
Place: Geneva  
Session of the Conference: 25  
Date of adoption: 27.06.1939  
Subject classification: Indigenous and Tribal Peoples  
Subject: **Indigenous and Tribal Peoples**

Withdrawal of the Labour Inspectorates (Indigenous Workers) Recommendation, 1939

The General Conference of the International Labour Organization, Having been convened in Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and Following consideration of the proposal for the withdrawal of several international labour Recommendations, which is the seventh item on the agenda of this session, decides this day of June of the year two thousand and two to withdraw the Labour Inspectorates (Indigenous Workers) Recommendation, 1939 (No. 59). The Director-General of the International Labour Office shall notify all Members of the International Labour Organization, as well as the Secretary-General of the United Nations, of this decision to withdraw the instrument. The English and French versions of the text of this decision are equally authoritative.

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-fifth Session on 8 June 1939, and

Having decided upon the adoption of certain proposals with regard to labour inspectorates for indigenous workers, which is included in the second item on the agenda of the Session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and thirty-nine, the following Recommendation, which may be cited as the Labour Inspectorates (Indigenous Workers) Recommendation, 1939:

The Conference,

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Having adopted the Contracts of Employment (Indigenous Workers) Convention, 1939, and

Considering that the law or regulations relating to the employment of indigenous workers can only be satisfactorily administered by labour inspection services,

Recommends that the Members of the International Labour Organisation concerned should establish labour inspection services in any territories where such services do not already exist.

## **6. Convention No. 81, Labour Inspection, 1947**

Convention concerning Labour Inspection in Industry and Commerce  
(Note: Date of coming into force: 07.04.1950)  
Convention: C081  
Place: Geneva  
Session of the Conference: 30  
Date of adoption: 11.07.1947  
Subject classification: Labour Inspection  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals with regard to the organisation of labour inspection in industry and commerce, which is the fourth item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven the following Convention, which may be cited as the Labour Inspection Convention, 1947:

### PART I. LABOUR INSPECTION IN INDUSTRY

#### *Article 1*

Each Member of the International Labour Organisation for which this Convention is in force shall maintain a system of labour inspection in industrial workplaces.

#### *Article 2*

1. The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.

2. National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention.

#### *Article 3*

1. The functions of the system of labour inspection shall be:

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- (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
  - (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
  - (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

2. Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

#### *Article 4*

1. So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.

2. In the case of a federal State, the term *central authority* may mean either a federal authority or a central authority of a federated unit.

#### *Article 5*

The competent authority shall make appropriate arrangements to promote:

- (a) effective co-operation between the inspection services and other government services and public or private institutions engaged in similar activities; and
- (b) collaboration between officials of the labour inspectorate and employers and workers or their organisations.

#### *Article 6*

The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

#### *Article 7*

1. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.

2. The means of ascertaining such qualifications shall be determined by the competent authority.

3. Labour inspectors shall be adequately trained for the performance of their duties.

#### *Article 8*

Both men and women shall be eligible for appointment to the inspection staff; where necessary, special duties may be assigned to men and women inspectors.

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*Article 9*

Each Member shall take the necessary measures to ensure that duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection, in such manner as may be deemed most appropriate under national conditions, for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers while engaged in their work and of investigating the effects of processes, materials and methods of work on the health and safety of workers.

*Article 10*

The number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate and shall be determined with due regard for:

- (a) the importance of the duties which inspectors have to perform, in particular:
  - (i) the number, nature, size and situation of the workplaces liable to inspection;
  - (ii) the number and classes of workers employed in such workplaces; and
  - (iii) the number and complexity of the legal provisions to be enforced;
- (b) the material means placed at the disposal of the inspectors; and
- (c) the practical conditions under which visits of inspection must be carried out in order to be effective.

*Article 11*

1. The competent authority shall make the necessary arrangements to furnish labour inspectors with:

- (a) local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned;
- (b) the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.

2. The competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties.

*Article 12*

1. Labour inspectors provided with proper credentials shall be empowered:

- (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
- (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and
- (c) to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular:

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- (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;
  - (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;
  - (iii) to enforce the posting of notices required by the legal provisions;
  - (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

2. On the occasion of an inspection visit, inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

#### *Article 13*

1. Labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers.

2. In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a judicial or administrative authority which may be provided by law, to make or to have made orders requiring--

- (a) such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers; or
- (b) measures with immediate executory force in the event of imminent danger to the health or safety of the workers.

3. Where the procedure prescribed in paragraph 2 is not compatible with the administrative or judicial practice of the Member, inspectors shall have the right to apply to the competent authority for the issue of orders or for the initiation of measures with immediate executory force.

#### *Article 14*

The labour inspectorate shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.

#### *Article 15*

Subject to such exceptions as may be made by national laws or regulations, labour inspectors--

- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision;

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- (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
  - (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

*Article 16*

Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

*Article 17*

1. Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning: Provided that exceptions may be made by national laws or regulations in respect of cases in which previous notice to carry out remedial or preventive measures is to be given.

2. It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings.

*Article 18*

Adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced.

*Article 19*

1. Labour inspectors or local inspection offices, as the case may be, shall be required to submit to the central inspection authority periodical reports on the results of their inspection activities.

2. These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the central authority; they shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.

*Article 20*

1. The central inspection authority shall publish an annual general report on the work of the inspection services under its control.

2. Such annual reports shall be published within a reasonable time after the end of the year to which they relate and in any case within twelve months.

3. Copies of the annual reports shall be transmitted to the Director-General of the International Labour Office within a reasonable period after their publication and in any case within three months.



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*Article 21*

The annual report published by the central inspection authority shall deal with the following and other relevant subjects in so far as they are under the control of the said authority:

- (a) laws and regulations relevant to the work of the inspection service;
- (b) staff of the labour inspection service;
- (c) statistics of workplaces liable to inspection and the number of workers employed therein;
- (d) statistics of inspection visits;
- (e) statistics of violations and penalties imposed;
- (f) statistics of industrial accidents;
- (g) statistics of occupational diseases.

PART II. LABOUR INSPECTION IN COMMERCE

*Article 22*

Each Member of the International Labour Organisation for which this Part of this Convention is in force shall maintain a system of labour inspection in commercial workplaces.

*Article 23*

The system of labour inspection in commercial workplaces shall apply to workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.

*Article 24*

The system of labour inspection in commercial workplaces shall comply with the requirements of Articles 3 to 21 of this Convention in so far as they are applicable.

PART III. MISCELLANEOUS PROVISIONS

*Article 25*

1. Any Member of the International Labour Organisation which ratifies this Convention may, by a declaration appended to its ratification, exclude Part II from its acceptance of the Convention.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the position of its law and practice in regard to the provisions of Part II of this Convention and the extent to which effect has been given, or is proposed to be given, to the said provisions.

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*Article 26*

In any case in which it is doubtful whether any undertaking, part or service of an undertaking or workplace is an undertaking, part, service or workplace to which this Convention applies, the question shall be settled by the competent authority.

*Article 27*

In this Convention the term *legal provisions* includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred and which are enforceable by labour inspectors.

*Article 28*

There shall be included in the annual reports to be submitted under Article 22 of the Constitution of the International Labour Organisation full information concerning all laws and regulations by which effect is given to the provisions of this Convention.

*Article 29*

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of this Convention either generally or with such exceptions in respect of particular undertakings or occupations as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and shall give the reasons for which it proposes to have recourse thereto; no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

*Article 30*

1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office as soon as possible after ratification a declaration stating:

- (a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
- (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
- (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

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(d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 34, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### *Article 31*

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office --

(a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

(b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 34, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

### PART IV. FINAL PROVISIONS

#### *Article 32*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

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*Article 33*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications have been registered.

*Article 34*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 35*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 36*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 37*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 38*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

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(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 34 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

#### *Article 39*

The English and French versions of the text of this Convention are equally authoritative.

### **7. Recommendation No. 81, Labour Inspection, 1947**

Recommendation concerning Labour Inspection Recommendation: R081 Place: Geneva Session of the Conference: 30 Date of adoption: 11.07.1947 Subject classification: Labour Inspection Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals with regard to the organisation of labour inspection in industry and commerce, which is the fourth item on the agenda of the Session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Inspection Recommendation, 1923, and the Labour Inspection Convention, 1947,

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven, the following Recommendation, which may be cited as the Labour Inspection Recommendation, 1947:

Whereas the Labour Inspection Recommendation, 1923, and the Labour Inspection Convention, 1947, provide for organisation of systems of labour inspection and it is desirable to supplement the provisions thereof by further recommendations;

The Conference recommends that each Member should apply the following provisions as rapidly as national conditions allow and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto.

#### **I. PREVENTIVE DUTIES OF LABOUR INSPECTORATES**

1. Any person who proposes to open an industrial or commercial establishment, or to take over such an establishment, or to commence in such an establishment the carrying on

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of a class of activity specified by a competent authority as materially affecting the application of legal provisions enforceable by labour inspectors, should be required to give notice in advance to the competent labour inspectorate either directly or through another designated authority.

2. Members should make arrangements under which plans for new establishments, plant, or processes of production may be submitted to the appropriate labour inspection service for an opinion as to whether the said plans would render difficult or impossible compliance with the laws and regulations concerning industrial health and safety or would be likely to constitute a threat to the health or safety of the workers.

3. Subject to any right of appeal which may be provided by law, the execution of plans for new establishments, plant and processes of production deemed under national laws or regulations to be dangerous or unhealthy should be conditional upon the carrying out of any alterations ordered by the inspectorate for the purpose of securing the health and safety of the workers.

## II. COLLABORATION OF EMPLOYERS AND WORKERS IN REGARD TO HEALTH AND SAFETY

4. (1) Arrangements for collaboration between employers and workers for the purpose of improving conditions affecting the health and safety of the workers should be encouraged.

(2) Such arrangements might take the form of safety committees or similar bodies set up within each undertaking or establishment and including representatives of the employers and the workers.

5. Representatives of the workers and the management, and more particularly members of works safety committees or similar bodies where such exist, should be authorised to collaborate directly with officials of the labour inspectorate, in a manner and within limits fixed by the competent authority, when investigations and, in particular, enquiries into industrial accidents or occupational diseases are carried out.

6. The promotion of collaboration between officials of the labour inspectorate and organisations of employers and workers should be facilitated by the organisation of conferences or joint committees, or similar bodies, in which representatives of the labour inspectorate discuss with representatives of organisations of employers and workers questions concerning the enforcement of labour legislation and the health and safety of the workers.

7. Appropriate steps should be taken to ensure that employers and workers are given advice and instruction in labour legislation and questions of industrial hygiene and safety by such measures as:

- (a) lectures, radio talks, posters, pamphlets and films explaining the provisions of labour legislation and suggesting methods for their application and measures for preventing industrial accidents and occupational diseases;
- (b) health and safety exhibitions; and
- (c) instruction in industrial hygiene and safety in technical schools.

## III. LABOUR DISPUTES

8. The functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes.

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#### IV. ANNUAL REPORTS ON INSPECTION

9. The published annual reports on the work of inspection services should, in so far as possible, supply the following detailed information:

- (a) a list of the laws and regulations bearing on the work of the inspection system not mentioned in previous reports;
- (b) particulars of the staff of the labour inspection system, including:
  - (i) the aggregate number of inspectors;
  - (ii) the numbers of inspectors of different categories;
  - (iii) the number of women inspectors; and
  - (iv) particulars of the geographical distribution of inspection services;
- (c) statistics of workplaces liable to inspection and of the number of persons therein employed, including:
  - (i) the number of workplaces liable to inspection;
  - (ii) the average number of persons employed in such workplaces during the year;
  - (iii) particulars of the classification of persons employed under the following headings: men, women, young persons, and children;
- (d) statistics of inspection visits, including:
  - (i) the number of workplaces visited;
  - (ii) the number of inspection visits made, classified according to whether they were made by day or by night;
  - (iii) the number of persons employed in the workplaces visited;
  - (iv) the number of workplaces visited more than once during the year;
- (e) statistics of violations and penalties, including:
  - (i) the number of infringements reported to the competent authorities;
  - (ii) particulars of the classification of such infringements according to the legal provisions to which they relate;
  - (iii) the number of convictions;
  - (iv) particulars of the nature of the penalties imposed by the competent authorities in the various cases (fines, imprisonment, etc.);
- (f) statistics of industrial accidents, including the number of industrial accidents notified and particulars of the classification of such accidents:
  - (i) by industry and occupation;
  - (ii) according to cause;

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- (iii) according to whether fatal or non-fatal;
  - (g) statistics of occupational diseases, including:
    - (i) the number of cases of occupational disease notified;
    - (ii) particulars of the classification of such cases according to industry and occupation;
    - (iii) particulars of the classification of such cases according to their cause or character, such as the nature of the disease, poisonous substance or unhealthy process to which the disease is due.

## **8. Recommendation No. 82, Labour Inspection (Mining and Transport), 1947**

Recommendation concerning Labour Inspection in Mining and Transport Undertakings  
Recommendation: R082  
Place: Geneva  
Session of the Conference: 30  
Date of adoption: 11.07.1947  
Subject classification: Labour Inspection  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals with regard to the organisation of labour inspection in mining and transport undertakings, which is included in the fourth item on the agenda of the Session, and

Having determined that certain of these proposals shall take the form of a Recommendation supplementing the Labour Inspection Recommendation, 1923, the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947,

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven, the following Recommendation, which may be cited as the Labour Inspection (Mining and Transport) Recommendation, 1947:

Whereas the Labour Inspection Convention, 1947, provides for the organisation of systems of labour inspection and permits the exemption of mining and transport undertakings from the application thereof by national laws or regulations; and

Whereas it is nevertheless essential to make adequate provision in respect of mining and transport undertakings for the effective enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work;

The Conference recommends that each Member should apply the following provisions as rapidly as national conditions allow and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto:

Each Member of the International Labour Organisation should apply to mining and transport undertakings as defined by the competent authority appropriate systems of labour



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inspection to ensure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.

**9. Convention No. 85, Labour Inspectorates (Non-Metropolitan Territories), 1947**

Convention concerning Labour Inspectorates in Non-Metropolitan Territories (Note: Date of coming into force: 26.07.1955) Convention: C085 Place: Geneva Session of the Conference: 30 Date of adoption: 11.07.1947 Subject classification: Workers in Non-Metropolitan Territories Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals concerning labour inspectorates in non-metropolitan territories, which is included in the third item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this eleventh day of July of the year one thousand nine hundred and forty-seven the following Convention, which may be cited as the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947:

*Article 1*

Labour inspection services complying with the requirements of Articles 2 to 5 of this Convention shall be maintained in non-metropolitan territories.

*Article 2*

Labour inspection services shall consist of suitably trained inspectors.

*Article 3*

Workers and their representatives shall be afforded every facility for communicating freely with the inspectors.

*Article 4*

1. Inspectors appointed by the competent authority and provided with credentials shall be required to inspect conditions of employment at frequent intervals.

2. Inspectors shall be authorised by law to exercise the following powers for the purpose of carrying out their duties:

- (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection where they may have reasonable cause to believe

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that persons enjoying legal protection are employed, and to inspect such workplaces;

- (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and
- (c) to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed and, in particular--
  - (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions, or to apply for information to any other person whose evidence they may consider necessary;
  - (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;
  - (iii) to enforce the posting of notices required by the legal provisions;
  - (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for this purpose.

3. On the occasion of an inspection visit, inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

#### *Article 5*

Subject to such exceptions as may be made by law or regulation, labour inspectors:

- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision;
- (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
- (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

#### *Article 6*

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said Article as so amended, each Member of the Organisation which ratifies this Convention shall append to its ratification, or communicate to the Director-General of the International Labour Office as soon as possible after ratification a declaration stating:

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- (a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
  - (b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
  - (c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
  - (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### *Article 7*

1. Where the subject matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the Government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

- (a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
- (b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 12, communicate to the Director-General a declaration modifying in any other

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respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

*Article 8*

In respect of each territory for which there is in force a declaration specifying modifications of the provisions of this Convention, the annual reports on the application of the Convention shall indicate the extent to which any progress has been made with a view to making it possible to renounce the right to have recourse to the said modifications.

*Article 9*

When a declaration undertaking that the provisions of the Labour Inspection Convention, 1947, shall be applied in respect of any territory has been communicated to the Director-General of the International Labour Office in pursuance of Article 30 of that Convention, or a declaration accepting the obligations of that Convention in respect of any territory has been so communicated in pursuance of Article 31 thereof, the provisions of this Convention shall cease to apply in respect of such territory.

*Article 10*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 11*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications have been registered.

*Article 12*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 13*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

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2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 14*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 15*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 16*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 17*

The English and French versions of the text of this Convention are equally authoritative.

## **10. Convention No. 110, Plantations, 1958**

Convention concerning Conditions of Employment of Plantation Workers (Note: Date of coming into force: 22.01.1960) Convention: C110 Place: Geneva Session of the Conference: 42 Date of adoption: 24.06.1958 Subject classification: Plantation Workers Subject: <b>Specific Categories of Workers</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

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Having considered the question of conditions of employment of plantation workers, which is the fifth item on the agenda of the session, and

Having decided that, as an exceptional measure, in order to expedite the application to plantations of certain provisions of existing Conventions, pending the more general ratification of these Conventions and the application of their provisions to all persons within their scope, and to provide for the application to plantations of certain Conventions not at present applicable thereto, it is desirable to adopt an instrument for these purposes, and

Having determined that this instrument shall take the form of an international Convention,

adopts this twenty-fourth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Plantations Convention, 1958:

[...]

## PART XI. LABOUR INSPECTION

### *Article 71*

Each Member for which this Convention is in force shall maintain a system of labour inspection.

### *Article 72*

Labour inspection services shall consist of suitably trained inspectors.

### *Article 73*

Workers and their representatives shall be afforded every facility for communicating freely with the inspectors.

### *Article 74*

1. The functions of the system of labour inspection shall be:

- (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
- (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

2. Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

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*Article 75*

The competent authority shall make appropriate arrangements to promote:

- (a) effective co-operation between the inspection services and other government services and public or private institutions engaged in similar activities; and
- (b) collaboration between officials of the labour inspectorate and employers and workers or their organisations.

*Article 76*

The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

*Article 77*

1. The competent authority shall make the necessary arrangements to furnish labour inspectors with:

- (a) local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned;
- (b) the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.

2. The competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties.

*Article 78*

1. Labour inspectors provided with proper credentials shall be empowered--

- (a) to enter freely and without previous notice at any hour of the day or night any place of employment liable to inspection;
- (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and
- (c) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed and, in particular:
  - (i) to interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions;
  - (ii) to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions and to copy such documents or make extracts from them;
  - (iii) to enforce the posting of notices required by the legal provisions;

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- (iv) to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

2. On the occasion of an inspection visit inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

*Article 79*

Subject to such exceptions as may be made by law or regulation, labour inspectors

- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision;
- (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
- (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

*Article 80*

The labour inspectorate shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.

*Article 81*

Places of employment shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

*Article 82*

1. Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning: Provided that exceptions may be made by national laws or regulations in respect of cases in which previous notice to carry out remedial or preventive measures is to be given.

2. It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings.

*Article 83*

Adequate penalties for violations of the legal provisions enforceable by labour inspectors and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced.



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*Article 84*

1. Labour inspectors or local inspection offices, as the case may be, shall be required to submit to the central inspection authority periodical reports on the results of their inspection activities.

2. These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the central authority; they shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.

[...]

## **11. Recommendation No. 110, Plantations, 1958**

Recommendation concerning Conditions of Employment of Plantation Workers  
Recommendation: R110  
Place: Geneva  
Session of the Conference: 42  
Date of adoption: 24.06.1958  
Subject classification: Plantation Workers  
Subject: **Specific Categories of Workers**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals concerning the conditions of employment of plantation workers, which is the fifth item on the agenda of the session, and

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

adopts this twenty-fourth day of June of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Plantations Recommendation, 1958:

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

[...]

### XI. LABOUR INSPECTION

54. Inspectors provided with credentials should be empowered by law:

- (a) to visit and inspect, at any hour of the day or night, places where they may have reasonable cause to believe that persons under the protection of the law are employed, and to enter by day any place which they may have reasonable cause to believe to be an establishment, or part thereof, subject to their supervision: Provided that, before leaving, inspectors should, if possible, notify the employer or some representative of the employer of their visit;
- (b) to question, without witnesses, the staff belonging to the establishment, and, for the purpose of carrying out their duties, to apply for information to any other persons whose evidence they may consider necessary, and to require to be shown any registers or documents which the laws regulating conditions of work require to be kept.

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[...]

## 12. **Convention No.129, Labour Inspection (Agriculture), 1969**

Convention concerning Labour Inspection in Agriculture  
(Note: Date of coming into force: 19.01.1972)  
Convention: C129  
Place: Geneva  
Session of the Conference: 53  
Date of adoption: 25.06.1969  
Subject classification: Labour Inspection  
Subject: **Labour Administration and Inspection**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-third Session on 4 June 1969, and

Noting the terms of existing international labour Conventions concerning labour inspection, such as the Labour Inspection Convention, 1947, which applies to industry and commerce, and the Plantations Convention, 1958, which covers a limited category of agricultural undertakings, and

Considering that international standards providing for labour inspection in agriculture generally are desirable, and

Having decided upon the adoption of certain proposals with regard to labour inspection in agriculture, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-fifth day of June of the year one thousand nine hundred and sixty-nine the following Convention, which may be cited as the Labour Inspection (Agriculture) Convention, 1969:

### *Article 1*

1. In this Convention the term *agricultural undertaking* means undertakings and parts of undertakings engaged in cultivation, animal husbandry including livestock production and care, forestry, horticulture, the primary processing of agricultural products by the operator of the holding or any other form of agricultural activity.

2. Where necessary, the competent authority shall, after consultation with the most representative organisations of employers and workers concerned, where such exist, define the line which separates agriculture from industry and commerce in such a manner as not to exclude any agricultural undertaking from the national system of labour inspection.

3. In any case in which it is doubtful whether an undertaking or part of an undertaking is one to which this Convention applies, the question shall be settled by the competent authority.

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*Article 2*

In this Convention the term *legal provisions* includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred and which are enforceable by labour inspectors.

*Article 3*

Each Member of the International Labour Organisation for which this Convention is in force shall maintain a system of labour inspection in agriculture.

*Article 4*

The system of labour inspection in agriculture shall apply to agricultural undertakings in which work employees or apprentices, however they may be remunerated and whatever the type, form or duration of their contract.

*Article 5*

1. Any Member ratifying this Convention may, in a declaration accompanying its ratification, undertake also to cover by labour inspection in agriculture one or more of the following categories of persons working in agricultural undertakings:

- (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) persons participating in a collective economic enterprise, such as members of a co-operative;
- (c) members of the family of the operator of the undertaking, as defined by national laws or regulations.

2. Any Member which has ratified this Convention may subsequently communicate to the Director-General of the International Labour Office a declaration undertaking to cover one or more of the categories of persons referred to in the preceding paragraph which are not already covered in virtue of a previous declaration.

3. Each Member which has ratified this Convention shall indicate in its reports under article 22 of the Constitution of the International Labour Organisation to what extent effect has been given or is proposed to be given to the provisions of the Convention in respect of such of the categories of persons referred to in paragraph 1 of this Article as are not covered in virtue of a declaration.

*Article 6*

1. The functions of the system of labour inspection in agriculture shall be:

- (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, weekly rest and holidays, safety, health and welfare, the employment of women, children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
- (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;

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- (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions and to submit to it proposals on the improvement of laws and regulations.

2. National laws or regulations may give labour inspectors in agriculture advisory or enforcement functions regarding legal provisions relating to conditions of life of workers and their families.

3. Any further duties which may be entrusted to labour inspectors in agriculture shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.

#### *Article 7*

1. So far as is compatible with the administrative practice of the Member, labour inspection in agriculture shall be placed under the supervision and control of a central body.

2. In the case of a federal State, the term *central body* may mean either one at federal level or one at the level of a federated unit.

3. Labour inspection in agriculture might be carried out for example--

- (a) by a single labour inspection department responsible for all sectors of economic activity;
- (b) by a single labour inspection department, which would arrange for internal functional specialisation through the appropriate training of inspectors called upon to exercise their functions in agriculture;
- (c) by a single labour inspection department, which would arrange for internal institutional specialisation by creating a technically qualified service, the officers of which would perform their functions in agriculture; or
- (d) by a specialised agricultural inspection service, the activity of which would be supervised by a central body vested with the same prerogatives in respect of labour inspection in other fields, such as industry, transport and commerce.

#### *Article 8*

1. The labour inspection staff in agriculture shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

2. So far as is compatible with national laws or regulations or with national practice, Members may include in their system of labour inspection in agriculture officials or representatives of occupational organisations, whose activities would supplement those of the public inspection staff; the persons concerned shall be assured of stability of tenure and be independent of improper external influences.

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*Article 9*

1. Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors in agriculture shall be recruited with sole regard to their qualifications for the performance of their duties.

2. The means of ascertaining such qualifications shall be determined by the competent authority.

3. Labour inspectors in agriculture shall be adequately trained for the performance of their duties and measures shall be taken to give them appropriate further training in the course of their employment.

*Article 10*

Both men and women shall be eligible for appointment to the labour inspection staff in agriculture; where necessary, special duties may be assigned to men and women inspectors.

*Article 11*

Each Member shall take the necessary measures to ensure that duly qualified technical experts and specialists, who might help to solve problems demanding technical knowledge, are associated in the work of labour inspection in agriculture in such manner as may be deemed most appropriate under national conditions.

*Article 12*

1. The competent authority shall make appropriate arrangements to promote effective co-operation between the inspection services in agriculture and government services and public or approved institutions which may be engaged in similar activities.

2. Where necessary, the competent authority may either entrust certain inspection functions at the regional or local level on an auxiliary basis to appropriate government services or public institutions or associate these services or institutions with the exercise of the functions in question, on condition that this does not prejudice the application of the principles of this Convention.

*Article 13*

The competent authority shall make appropriate arrangements to promote collaboration between officials of the labour inspectorate in agriculture and employers and workers, or their organisations where such exist.

*Article 14*

Arrangements shall be made to ensure that the number of labour inspectors in agriculture is sufficient to secure the effective discharge of the duties of the inspectorate and is determined with due regard for--

- (a) the importance of the duties which inspectors have to perform, in particular:
  - (i) the number, nature, size and situation of the agricultural undertakings liable to inspection;
  - (ii) the number and classes of persons working in such undertakings; and

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- (iii) the number and complexity of the legal provisions to be enforced;
  - (b) the material means placed at the disposal of the inspectors; and
  - (c) the practical conditions under which visits of inspection must be carried out in order to be effective.

*Article 15*

1. The competent authority shall make the necessary arrangements to furnish labour inspectors in agriculture with:

- (a) local offices so located as to take account of the geographical situation of the agricultural undertakings and of the means of communication, suitably equipped in accordance with the requirements of the service, and, in so far as possible, accessible to the persons concerned;
- (b) the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.

2. The competent authority shall make the necessary arrangements to reimburse to labour inspectors in agriculture any travelling and incidental expenses which may be necessary for the performance of their duties.

*Article 16*

1. Labour inspectors in agriculture provided with proper credentials shall be empowered:

- (a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;
- (b) to enter by day any premises which they may have reasonable cause to believe to be liable to inspection;
- (c) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular--
  - (i) to interview, alone or in the presence of witnesses, the employer, the staff of the undertaking or any other person in the undertaking on any matters concerning the application of the legal provisions;
  - (ii) to require, in such manner as national laws or regulations may prescribe, the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of life and work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them;
  - (iii) to take or remove for purposes of analysis samples of products, materials and substances used or handled, subject to the employer or his representative being notified of any products, materials or substances taken or removed for such purposes.

2. Labour inspectors shall not enter the private home of the operator of the undertaking in pursuance of subparagraph (a) or (b) of paragraph 1 of this Article except

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with the consent of the operator or with a special authorisation issued by the competent authority.

3. On the occasion of an inspection visit, inspectors shall notify the employer or his representative, and the workers or their representatives, of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.

#### *Article 17*

The labour inspection services in agriculture shall be associated, in such cases and in such manner as may be determined by the competent authority, in the preventive control of new plant, new materials or substances and new methods of handling or processing products which appear likely to constitute a threat to health or safety.

#### *Article 18*

1. Labour inspectors in agriculture shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods in agricultural undertakings, including the use of dangerous materials or substances, which they may have reasonable cause to believe constitute a threat to health or safety.

2. In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a legal or administrative authority which may be provided by law, to make or have made orders requiring--

- (a) such alterations to the installation, plant, premises, tools, equipment or machines, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to health or safety; or
- (b) measures with immediate executory force, which can go as far as halting the work, in the event of imminent danger to health or safety.

3. Where the procedure described in paragraph 2 is not compatible with the administrative or judicial practice of the Member, inspectors shall have the right to apply to the competent authority for the issue of orders or for the initiation of measures with immediate executory force.

4. The defects noted by the inspector when visiting an undertaking and the orders he is making or having made in pursuance of paragraph 2 or for which he intends to apply in pursuance of paragraph 3 shall be immediately made known to the employer and the representatives of the workers.

#### *Article 19*

1. The labour inspectorate in agriculture shall be notified of occupational accidents and cases of occupational disease occurring in the agricultural sector in such cases and in such manner as may be prescribed by national laws or regulations.

2. As far as possible, inspectors shall be associated with any inquiry on the spot into the causes of the most serious occupational accidents or occupational diseases, particularly of those which affect a number of workers or have fatal consequences.

#### *Article 20*

Subject to such exceptions as may be made by national laws or regulations, labour inspectors in agriculture:

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- (a) shall be prohibited from having any direct or indirect interest in the undertakings under their supervision;
  - (b) shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties; and
  - (c) shall treat as absolutely confidential the source of any complaint bringing to their notice a defect, a danger in working processes or a breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

*Article 21*

Agricultural undertakings shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.

*Article 22*

1. Persons who violate or neglect to observe legal provisions enforceable by labour inspectors in agriculture shall be liable to prompt legal or administrative proceedings without previous warning: Provided that exceptions may be made by national laws or regulations in respect of cases in which previous notice to carry out remedial or preventive measures is to be given.

2. It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings.

*Article 23*

If labour inspectors in agriculture are not themselves authorised to institute proceedings, they shall be empowered to refer reports of infringements of the legal provisions directly to an authority competent to institute such proceedings.

*Article 24*

Adequate penalties for violations of the legal provisions enforceable by labour inspectors in agriculture and for obstructing labour inspectors in the performance of their duties shall be provided for by national laws or regulations and effectively enforced.

*Article 25*

1. Labour inspectors or local inspection offices, as the case may be, shall be required to submit to the central inspection authority periodical reports on the results of their activities in agriculture.

2. These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the central inspection authority; they shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.



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*Article 26*

1. The central inspection authority shall publish an annual report on the work of the inspection services in agriculture, either as a separate report or as part of its general annual report.

2. Such annual reports shall be published within a reasonable time after the end of the year to which they relate and in any case within twelve months.

3. Copies of the annual reports shall be transmitted to the Director-General of the International Labour Office within three months after their publication.

*Article 27*

The annual report published by the central inspection authority shall deal in particular with the following subjects, in so far as they are under the control of the said authority:

- (a) laws and regulations relevant to the work of labour inspection in agriculture;
- (b) staff of the labour inspection service in agriculture;
- (c) statistics of agricultural undertakings liable to inspection and the number of persons working therein;
- (d) statistics of inspection visits;
- (e) statistics of violations and penalties imposed;
- (f) statistics of occupational accidents, including their causes;
- (g) statistics of occupational diseases, including their causes.

*Article 28*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 29*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

*Article 30*

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

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2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

*Article 31*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

*Article 32*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

*Article 33*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 34*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 35*

The English and French versions of the text of this Convention are equally authoritative.

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### 13. **Recommendation No. 133, Labour Inspection (Agriculture), 1969**

Recommendation concerning Labour Inspection in Agriculture Recommendation: R133 Place: Geneva Session of the Conference: 53 Date of adoption: 25.06.1969 Subject classification: Labour Inspection Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-third Session on 4 June 1969, and

Having decided upon the adoption of certain proposals with regard to labour inspection in agriculture, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Inspection (Agriculture) Convention, 1969,

adopts this twenty-fifth day of June of the year one thousand nine hundred and sixty-nine, the following Recommendation, which may be cited as the Labour Inspection (Agriculture) Recommendation, 1969:

1. Where national conditions permit, the functions of the labour inspectorate in agriculture should be enlarged so as to include collaboration with the competent technical services with a view to helping the agricultural producer, whatever his status, to improve his holding and the conditions of life and work of the persons working on it.

2. Subject to the provisions of Article 6, paragraph 3, of the Labour Inspection (Agriculture) Convention, 1969, the labour inspectorate in agriculture might be associated in the enforcement of legal provisions on such matters as--

- (a) training of workers;
- (b) social services in agriculture;
- (c) co-operatives;
- (d) compulsory school attendance.

3. (1) Normally, the functions of labour inspectors in agriculture should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes.

(2) Where no special bodies for this purpose exist in agriculture, labour inspectors in agriculture may be called upon as a temporary measure to act as conciliators.

(3) In the case provided for by subparagraph (2) of this Paragraph, the competent authority should take measures in harmony with national law and compatible with the resources of the labour department of the country concerned with a view to relieving labour inspectors progressively of such functions, so that they are able to devote themselves to a greater extent to the actual inspection of undertakings.

4. Labour inspectors in agriculture should become familiar with conditions of life and work in agriculture and have knowledge of the economic and technical aspects of work in agriculture.

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5. Candidates for senior positions in the labour inspectorate in agriculture should be in possession of appropriate professional or academic qualifications or have acquired thorough practical experience in labour administration.

6. Candidates for other positions in the labour inspectorate in agriculture (such as assistant inspectors and junior staff) should, if the level of education in the country allows, have completed secondary general education, supplemented, if possible, by appropriate technical training, or have acquired adequate administrative or practical experience in labour matters.

7. In countries where education is not sufficiently developed, persons appointed as labour inspectors in agriculture should at least have some practical experience in agriculture or show an interest in and have capacity for this type of work; they should be given adequate training on the job as rapidly as possible.

8. The central labour inspection authority should give labour inspectors in agriculture guidelines so as to ensure that they perform their duties throughout the country in a uniform manner.

9. The activity of labour inspectors in agriculture during the night should be limited to those matters which cannot be effectively controlled during the day.

10. The use in agriculture of committees for hygiene and safety which include representatives of employers and of workers might be one of the means of collaboration between officials of the labour inspectorate in agriculture and employers and workers, or their organisations where such exist.

11. The association of the labour inspectorate in agriculture in the preventive control of new plant, new materials or substances and new methods of handling or processing products which appear likely to constitute a threat to health or safety, provided for in Article 17 of the Labour Inspection (Agriculture) Convention, 1969, should include prior consultation with the labour inspectorate on:

- (a) the putting into operation of such plant, materials or substances, and methods; and
- (b) the plans of any plant in which dangerous machines or unhealthy or dangerous work processes are to be used.

12. Employers should provide the necessary facilities to labour inspectors in agriculture, including, where appropriate, the use of a room for interviews with persons working in the undertaking.

13. The annual report published by the central inspection authority might, in addition to the subjects listed in Article 27 of the Labour Inspection (Agriculture) Convention, 1969, deal with the following matters in so far as they are within the competence of the said authority:

- (a) statistics of labour disputes in agriculture;
- (b) identification of problems regarding application of the legal provisions, and progress made in solving them; and
- (c) suggestions for improving the conditions of life and work in agriculture.

14. (1) Members should undertake or promote education campaigns intended to inform the parties concerned, by all appropriate means, of the applicable legal provisions

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and the need to apply them strictly as well as of the dangers to the life or health of persons working in agricultural undertakings and of the most appropriate means of avoiding them.

- (2) Such campaigns might, in the light of national conditions, include:
- (a) use of the services of rural promoters or instructors;
  - (b) distribution of posters, pamphlets, periodicals and newspapers;
  - (c) organisation of film shows, and radio and television broadcasts;
  - (d) arrangements for exhibitions and practical demonstrations on hygiene and safety;
  - (e) inclusion of hygiene and safety and other appropriate subjects in the teaching programmes of rural schools and agricultural schools;
  - (f) organisation of conferences for persons working in agriculture who are affected by the introduction of new working methods or of new materials or substances;
  - (g) participation of labour inspectors in agriculture in workers' education programmes; and
  - (h) arrangements of lectures, debates, seminars and competitions with prizes.

#### **14. Protocol of 1995 No. 81, to the Labour Inspection Convention, 1947**

Protocol of 1995 to the Labour Inspection Convention, 1947 (Note: Date of coming into force: 09.06.1998) Convention: P081 Place: Geneva Session of the Conference: 82 Date of adoption: 22.06.1995 Subject classification: Labour Inspection Subject: <b>Labour Administration and Inspection</b>
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The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Eighty-second Session on 6 June 1995, and

Noting that the provisions of the Labour Inspection Convention, 1947, apply only to industrial and commercial workplaces, and

Noting that the provisions of the Labour Inspection (Agriculture) Convention, 1969, apply to workplaces in commercial and non-commercial agricultural undertakings, and

Noting that the provisions of the Occupational Safety and Health Convention, 1981, apply to all branches of economic activity, including the public service, and

Having regard to all the risks to which workers in the non-commercial services sector may be exposed, and the need to ensure that this sector is subject to the same or an equally effective and impartial system of labour inspection as that provided in the Labour Inspection Convention, 1947, and

Having decided upon the adoption of certain proposals with regard to activities in the non-commercial services sector, which is the sixth item on the agenda of the session, and

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Having determined that these proposals shall take the form of a Protocol to the Labour Inspection Convention, 1947,

adopts this twenty-second day of June of the year one thousand nine hundred and ninety-five the following Protocol, which may be cited as the Protocol of 1995 to the Labour Inspection Convention, 1947:

## PART I. SCOPE, DEFINITION AND APPLICATION

### *Article 1*

1. Each Member which ratifies this Protocol shall extend the application of the provisions of the Labour Inspection Convention, 1947 (hereunder referred to as “the Convention”), to activities in the non-commercial services sector.

2. The term “activities in the non-commercial services sector” refers to activities in all categories of workplaces that are not considered as industrial or commercial for the purposes of the Convention.

3. This Protocol applies to all workplaces that do not already fall within the scope of the Convention.

### *Article 2*

1. A Member which ratifies this Protocol may, by a declaration appended to its instrument of ratification, exclude wholly or partly from its scope the following categories:

- (a) essential national (federal) government administration;
- (b) the armed services, whether military or civilian personnel;
- (c) the police and other public security services;
- (d) prison services, whether prison staff or prisoners when performing work,

if the application of the Convention to any of these categories would raise special problems of a substantial nature.

2. Before the Member avails itself of the possibility afforded in paragraph 1, it shall consult the most representative organizations of employers and workers or, in the absence of such organizations, the representatives of the employers and workers concerned.

3. A Member which has made a declaration as referred to in paragraph 1 shall, following ratification of this Protocol, indicate in its next report on the application of the Convention under article 22 of the Constitution of the International Labour Organization the reasons for the exclusion and, to the extent possible, provide for alternative inspection arrangements for any categories of workplaces thus excluded. It shall describe in subsequent reports any measures it may have taken with a view to extending the provisions of the Protocol to them.

4. A Member which has made a declaration referred to in paragraph 1 may at any time modify or cancel that declaration by a subsequent declaration in accordance with the provisions of this Article.

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*Article 3*

1. The provisions of this Protocol shall be implemented by means of national laws or regulations, or by other means that are in accordance with national practice.

2. Measures taken to give effect to this Protocol shall be drawn up in consultation with the most representative organizations of employers and workers or, in the absence of such organizations, the representatives of the employers and workers concerned.

PART II. SPECIAL ARRANGEMENTS

*Article 4*

1. A Member may 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 the powers of labour inspectors as provided in Article 12 of the Convention in regard to:

- (a) inspectors having appropriate security clearance before entering;
- (b) inspection by appointment;
- (c) the power to require the production of confidential documents;
- (d) the removal of confidential documents from the premises;
- (e) the taking and analysis of samples of materials and substances.

2. The Member may also make special arrangements for the inspection of workplaces of the armed services and the police and other public security services so as to permit any of the following limitations on the powers of labour inspectors:

- (a) restriction of inspection during manoeuvres or exercises;
- (b) restriction or prohibition of inspection of front-line or active service units;
- (c) restriction or prohibition of inspection during declared periods of tension;
- (d) limitation of inspection in respect of the transport of explosives and armaments for military purposes.

3. The Member may also make special arrangements for the inspection of workplaces of prison services to permit restriction of inspection during declared periods of tension.

4. Before a Member avails itself of any of the special arrangements afforded in paragraphs (1), (2) and (3), it shall consult the most representative organizations of employers and workers or, in the absence of such organizations, the representatives of the employers and workers concerned.

*Article 5*

The Member may make special arrangements for the inspection of workplaces of fire brigades and other rescue services to permit the restriction of inspection during the fighting of a fire or during rescue or other emergency operations. In such cases, the labour inspectorate shall review such operations periodically and after any significant incident.

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*Article 6*

The labour inspectorate shall be able to advise on the formulation of effective measures to minimize risks during training for potentially hazardous work and to participate in monitoring the implementation of such measures.

PART III. FINAL PROVISIONS

*Article 7*

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force 12 months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member 12 months after the date on which the ratification has been registered by the Director-General and the Convention shall then be binding on the Member concerned with the addition of Articles 1 to 6 of this Protocol.

*Article 8*

1. A Member which has ratified this Protocol may denounce it after the expiration of ten years from the date on which the Protocol first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified the Protocol and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Protocol at the expiration of each period of ten years under the terms provided for in this Article.

*Article 9*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations of this Protocol.

2. When notifying the Members of the Organization of the registration of the second ratification of this Protocol, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol will come into force.

3. The Director-General shall communicate full particulars of all ratifications and denunciations of this Protocol to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations.

*Article 10*

The English and French versions of the text of this Protocol are equally authoritative.



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## 15. **Convention No. 155, Occupational Safety and Health, 1981**

Convention concerning Occupational Safety and Health and the Working Environment  
(Note: Date of coming into force: 11.08.1983)  
Convention: C155  
Place: Geneva  
Session of the Conference: 67  
Date of adoption: 22.06.1981  
Subject classification: Occupational Safety and Health  
Subject: **Occupational Safety and Health**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Occupational Safety and Health Convention, 1981:

[...]

### PART III. ACTION AT THE NATIONAL LEVEL

#### *Article 8*

Each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organisations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4 of this Convention.

#### *Article 9*

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.

2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.

#### *Article 10*

Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.

#### *Article 11*

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

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- (a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;
  - (b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
  - (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
  - (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
  - (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;
  - (f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

#### *Article 12*

Measures shall be taken, in accordance with national law and practice, 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, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
- (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided;
- (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

#### *Article 13*

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

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*Article 14*

Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

*Article 15*

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.

2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

[...]

**16. Convention No. 178, Labour Inspection (Seafarers), 1996**

Convention concerning the Inspection of Seafarers' Working and Living Conditions  
(Note: Date of coming into force: 22.04.2000. The Convention was revised in 2006 by the Maritime Labour Convention (MLC).)  
Convention: C 178  
Place: Geneva  
Session of the Conference: 84  
Date of adoption: 22.10.1996  
Subject classification: Seafarers  
Subject: **Seafarers**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Eighty-fourth Session on 8 October 1996, and

Noting the changes in the nature of the shipping industry and, as a consequence thereof, the changes in seafarers' working and living conditions since the Labour Inspection (Seamen) Recommendation, 1926, was adopted, and

Recalling the provisions of the Labour Inspection Convention and Recommendation, 1947, the Labour Inspection (Mining and Transport) Recommendation, 1947, and the Merchant Shipping (Minimum Standards) Convention, 1976, and

Recalling the entry into force of the United Nations Convention on the Law of the Sea, 1982, on 16 November 1994, and

Having decided upon the adoption of certain proposals with regard to the revision of the Labour Inspection (Seamen) Recommendation, 1926, which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention for flag State implementation only;

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adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Convention, which may be cited as the Labour Inspection (Seafarers) Convention, 1996:

## PART I. SCOPE AND DEFINITIONS

### *Article 1*

1. Except as otherwise provided in this Article, this Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of a Member for which the Convention is in force and is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. National laws or regulations shall determine which ships are to be regarded as seagoing ships for the purpose of this Convention.

3. This Convention applies to seagoing tugs.

4. This Convention does not apply to vessels less than 500 gross tonnage and, when not engaged in navigation, vessels such as oil rigs and drilling platforms. The decision as to which vessels are covered by this paragraph shall be taken by the central coordinating authority in consultation with the most representative organizations of shipowners and seafarers.

5. To the extent the central coordinating authority deems it practicable, after consulting the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall apply to commercial maritime fishing vessels.

6. In the event of any doubt as to whether or not any ships are to be regarded as engaged in commercial maritime operations or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

7. For the purpose of this Convention:

- (a) the term *central coordinating authority* means 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 Member;
- (b) the term *inspector* means any civil servant or other public official with responsibility for inspecting any aspect of seafarers' working and living conditions, as well as any other person holding proper credentials performing an inspection for an institution or organization authorized by the central coordinating authority in accordance with Article 2, paragraph 3;
- (c) the term *legal provisions* includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred;
- (d) the term *seafarers* means persons who are employed in any capacity on board a seagoing ship to which the Convention applies. In the event of any doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of

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this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners and seafarers concerned;

- (e) the term *seafarers' working and living conditions* means the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, articles of agreement, food and catering, crew accommodation, recruitment, manning, qualifications, hours of work, medical examinations, prevention of occupational accidents, medical care, sickness and injury benefits, social welfare and related matters, repatriation, terms and conditions of employment which are subject to national laws and regulations, and freedom of association as defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948, of the International Labour Organization.

## PART II. ORGANIZATION OF INSPECTION

### *Article 2*

1. Each Member for which the Convention is in force shall maintain a system of inspection of seafarers' working and living conditions.

2. The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers' working and living conditions and shall establish principles to be observed.

3. The central coordinating authority 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 inspections of seafarers' working and living conditions on its behalf. It shall maintain and make publicly available a list of such institutions or organizations.

### *Article 3*

1. Each Member shall ensure that all ships registered in its territory are 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.

2. If a Member 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, the Member shall take measures to inspect the ship as soon as practicable.

3. In cases of substantial changes in construction or accommodation arrangements, the ship shall be inspected within three months of such changes.

### *Article 4*

Each Member shall appoint inspectors qualified for the performance of their duties and shall take the necessary steps to satisfy itself that inspectors are available in sufficient number to meet the requirements of this Convention.

### *Article 5*

1. Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

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2. Inspectors provided with proper credentials shall be empowered:

- (a) to board a ship registered in the territory of the Member and to enter premises as necessary for inspection;
- (b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed;
- (c) to require that deficiencies are remedied; and
- (d) where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health and safety, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken, the ship not being unreasonably detained or delayed.

*Article 6*

1. When an inspection is conducted or when measures are taken under this Convention, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

2. If a ship is unreasonably detained or delayed, the shipowner or operator of the ship shall be entitled to compensation for any loss or damage suffered. In any instance of alleged unreasonable detention or delay, the burden of proof shall lie with the shipowner or operator of the ship.

PART III. PENALTIES

*Article 7*

1. Adequate penalties for violations of the legal provisions enforceable by inspectors and for obstructing inspectors in the performance of their duties shall be provided for by national laws or regulations and shall be effectively enforced.

2. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings.

PART IV. REPORTS

*Article 8*

1. The central coordinating authority shall maintain records of inspections of seafarers' working and living conditions.

2. It shall publish an annual report on inspection activities, including a list of institutions and organizations authorized to carry out inspections on its behalf. This report shall be published within a reasonable time after the end of the year to which it relates and in any case within six months.

*Article 9*

1. Inspectors shall submit a report of each inspection to the central coordinating authority. One copy of the report in English or in the working language of the ship shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers or sent to their representatives.

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2. In case of an inspection pursuant to a major incident, the report shall be submitted as soon as practicable but not later than one month following the conclusion of the inspection.

## PART V. FINAL PROVISIONS

### *Article 10*

This Convention supersedes the Labour Inspection (Seamen) Recommendation, 1926.

### *Article 11*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

### *Article 12*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

### *Article 13*

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

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### *Article 14*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

### *Article 15*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with Article 102 of

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the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

*Article 16*

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 17*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 18*

The English and French versions of the text of this Convention are equally authoritative.

**17. Recommendation No. 185, Labour Inspection (Seafarers), 1996**

Recommendation concerning the Inspection of Seafarers' Working and Living Conditions Recommendation: R185 Place: Geneva Session of the Conference: 84 Date of adoption: 22.10.1996 Subject classification: Seafarers Subject: <b>Seafarers</b>
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The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Eighty-fourth Session on 8 October 1996, and

Having decided upon the adoption of certain proposals with regard to the revision of the Labour Inspection (Seamen) Recommendation, 1926, which is the first item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Inspection (Seafarers) Convention, 1996;



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adopts, this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Labour Inspection (Seafarers) Recommendation, 1996:

### I. COOPERATION AND COORDINATION

1. The central coordinating authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations concerned with seafarers' working and living conditions.

2. To ensure cooperation between inspectors, shipowners, seafarers and their respective organizations, and in order to maintain or improve seafarers' working and living conditions, the central coordinating authority should consult the representatives of such organizations at regular intervals as to the best means of attaining these ends. The manner of such consultation should be determined by the central coordinating authority after consulting with shipowners' and seafarers' organizations.

### II. ORGANIZATION OF INSPECTION

3. The central coordinating authority and any other service or authority wholly or partly concerned with the inspection of seafarers' working and living conditions should have the resources necessary to fulfil their functions.

4. The number of inspectors should be sufficient to secure the efficient discharge of their duties and should be determined with due regard to:

- (a) the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships liable to inspection and the number and complexity of the legal provisions to be enforced;
- (b) the material means placed at the disposal of the inspectors; and
- (c) the practical conditions under which inspections must be carried out in order to be effective.

5. The system of inspection of seafarers' working and living conditions should permit inspectors:

- (a) to alert the central coordinating authority to any deficiency or abuse not specifically covered by existing legal provisions and submit proposals to it for the improvement of laws and regulations; and
- (b) to board ships and enter relevant premises freely and without previous notice at any hour of the day or night.

6. The central coordinating authority should:

- (a) 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;
- (b) enable masters, crew members or representatives of the seafarers to call for an inspection when they consider it necessary; and

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- (d) supply technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the legal provisions and improving seafarers' working and living conditions.

### III. DUTIES AND POWERS OF INSPECTORS

7. (1) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, inspectors should have qualifications and adequate training to perform their duties and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

(2) The means for ascertaining such qualifications should be determined by the central coordinating authority.

8. Measures should be taken to provide inspectors with appropriate further training during their employment.

9. Each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors.

10. Inspectors should not be entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties.

11. All inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

12. (1) Inspectors provided with proper credentials should be empowered:

- (a) to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the legal provisions in the presence of a witness that the person may have requested;
- (b) to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to check conformity with the legal provisions;
- (c) to enforce the posting of notices required by the legal provisions; and
- (d) to take or remove, for the purposes of analysis, samples of products, cargo, drinking-water, provisions and materials and substances used or handled.

(2) The shipowner or the shipowner's representative, and where appropriate the seafarer, should be notified of any sample being taken or removed in accordance with subparagraph (1)(d) or should be present at the time a sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

13. When commencing a ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives.

14. The central coordinating authority should 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.

15. Inspectors should:

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- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect;
  - (b) subject to appropriate penalties or disciplinary measures, not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties;
  - (c) treat as confidential the source of any complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or an infringement of legal provisions 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
  - (d) 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.

#### IV. REPORTS

16. The annual report published by the central coordinating authority in accordance with Article 8, paragraph 2, of the Convention should also contain:

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into operation during the year;
- (b) details of the organization of the system of inspection referred to in Article 2 of the Convention;
- (c) statistics of ships or other premises liable to inspection and of ships and other premises actually inspected;
- (d) statistics of seafarers subject to the laws and regulations referred to in subparagraph (a) of this paragraph;
- (e) statistics and information on infringements of legislation, penalties imposed and cases of detention of ships; and
- (f) statistics of occupational injuries and diseases affecting seafarers.

17. The reports referred to in Article 9 of the Convention should be drawn up in such manner and should deal with such subject matter as may be prescribed by the central coordinating authority.

### **18. Convention No. 187, Promotional Framework for Occupational Safety and Health, 2006**

Convention concerning the promotional framework for occupational safety and health (Note: Date of coming into force: 20.02.2009) Convention: C187 Place: Geneva Date of adoption: 15.06.2006 Session of the Conference: 95 Subject classification: Occupational Safety and Health Subject: <b>Occupational Safety and Health</b>
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Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006,

Recognizing the global magnitude of occupational injuries, diseases and deaths, and the need for further action to reduce them, and

Recalling that the protection of workers against sickness, disease and injury arising out of employment is among the objectives of the International Labour Organization as set out in its Constitution, and

Recognizing that occupational injuries, diseases and deaths have a negative effect on productivity and on economic and social development, and

Noting paragraph III(g) of the Declaration of Philadelphia, which provides that the International Labour Organization has the solemn obligation to further among the nations of the world programmes which will achieve adequate protection for the life and health of workers in all occupations, and

Mindful of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up, 1998, and

Noting the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and other instruments of the International Labour Organization relevant to the promotional framework for occupational safety and health, and

Recalling that the promotion of occupational safety and health is part of the International Labour Organization's agenda of decent work for all, and

Recalling the Conclusions concerning ILO standards-related activities in the area of occupational safety and health - a global strategy, adopted by the International Labour Conference at its 91st Session (2003), in particular relating to ensuring that priority be given to occupational safety and health in national agendas, and

Stressing the importance of the continuous promotion of a national preventative safety and health culture, and

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

Having determined that these proposals shall take the form of an international Convention;

adopts this fifteenth day of June of the year two thousand and six the following Convention, which may be cited as the Promotional Framework for Occupational Safety and Health Convention, 2006.

[...]

#### IV. NATIONAL SYSTEM

##### *Article 4*

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.

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2. The national system for occupational safety and health shall include among others:
- (a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;
  - (b) an authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;
  - (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and
  - (d) 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.
3. The national system for occupational safety and health shall include, where appropriate:
- (a) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;
  - (b) information and advisory services on occupational safety and health;
  - (c) the provision of occupational safety and health training;
  - (d) occupational health services in accordance with national law and practice;
  - (e) research on occupational safety and health;
  - (f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;
  - (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
  - (h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

[...]

**19. Recommendation No. 198, Employment Relationship, 2006**

Recommendation concerning the employment relationship Recommendation: R198 Place: Geneva Session of the Conference: 95 Date of adoption: 15.06.2006 Subject classification: Employment Services - Job Placement Subject: <b>Employment policy and Promotion</b>
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The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006, and

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Considering that there is protection offered by national laws and regulations and collective agreements which are linked to the existence of an employment relationship between an employer and an employee, and

Considering that laws and regulations, and their interpretation, should be compatible with the objectives of decent work, and

Considering that employment or labour law seeks, among other things, to address what can be an unequal bargaining position between parties to an employment relationship, and

Considering that the protection of workers is at the heart of the mandate of the International Labour Organization, and in accordance with principles set out in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and the Decent Work Agenda, and

Considering the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application, and

Noting that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due, and

Recognizing that there is a role for international guidance to Members in achieving this protection through national law and practice, and that such guidance should remain relevant over time, and

Further recognizing that such protection should be accessible to all, particularly vulnerable workers, and should be based on law that is efficient, effective and comprehensive, with expeditious outcomes, and that encourages voluntary compliance, and

Recognizing that national policy should be the result of consultation with the social partners and should provide guidance to the parties concerned in the workplace, and

Recognizing that national policy should promote economic growth, job creation and decent work, and

Considering that the globalized economy has increased the mobility of workers who are in need of protection, at least against circumvention of national protection by choice of law, and

Noting that, in the framework of transnational provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is, and

Considering that the difficulties in establishing the existence of an employment relationship may create serious problems for those workers concerned, their communities, and society at large, and

Considering that the uncertainty as to the existence of an employment relationship needs to be addressed to guarantee fair competition and effective protection of workers in an employment relationship in a manner appropriate to national law or practice, and

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Noting all relevant international labour standards, especially those addressing the particular situation of women, as well as those addressing the scope of the employment relationship, and

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

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

adopts this fifteenth day of June of the year two thousand and six the following Recommendation, which may be cited as the Employment Relationship Recommendation, 2006.

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

[...]

4. National policy should at least include measures to:

[...]

(f) ensure compliance with, and effective application of, laws and regulations concerning the employment relationship; and

(g) provide for appropriate and adequate training in relevant international labour standards, comparative and case law for the judiciary, arbitrators, mediators, labour inspectors, and other persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standards.

[...]

#### II. DETERMINATION OF THE EXISTENCE OF AN EMPLOYMENT RELATIONSHIP

[...]

15. The competent authority should adopt measures with a view to ensuring respect for and implementation of laws and regulations concerning the employment relationship with regard to the various aspects considered in this Recommendation, for example, through labour inspection services and their collaboration with the social security administration and the tax authorities.

[...]

### 20. *Convention No. 189, Domestic Workers, 2011*

Convention concerning decent work for domestic workers (Note: Date of coming into force: ) Convention: C189 Place: Geneva Date of adoption: 16.06.2011 Session of the Conference: 100 Subject: <b>Specific Categories of Workers</b>
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The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and

Considering that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this sixteenth day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.



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[...]

*Article 17*

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

*Article 18*

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers and workers organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

[...]

*Part II*

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*Other instruments*



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## A. ILO Declaration on Social Justice for a Fair Globalization and Recovering from the crisis: A Global Jobs Pact

### 1. *ILO Declaration on Social Justice for a Fair Globalization, 2008*

INTERNATIONAL LABOUR CONFERENCE  
NINETY-SEVENTH SESSION  
GENEVA, 2008

[...]

#### I. SCOPE AND PRINCIPLES

The Conference recognizes and declares that:

A. In the context of accelerating change, the commitments and efforts of Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards, and to place full and productive employment and decent work at the centre of economic and social policies, should be based on the four equally important strategic objectives of the ILO, through which the Decent Work Agenda is expressed and which can be summarized as follows:

- (i) promoting employment by creating a sustainable institutional and economic environment in which:
  - individuals can develop and update the necessary capacities and skills they need to enable them to be productively occupied for their personal fulfilment and the common well-being;
  - all enterprises, public or private, are sustainable to enable growth and the generation of greater employment and income opportunities and prospects for all; and
  - societies can achieve their goals of economic development, good living standards and social progress;
- (ii) developing and enhancing measures of social protection social security and labour protection – which are sustainable and adapted to national circumstances, including:
  - the extension of social security to all, including measures to provide basic income to all in need of such protection, and adapting its scope and coverage to meet the new needs and uncertainties generated by the rapidity of technological, societal, demographic and economic changes;

healthy and safe working conditions; and policies in regard to wages and earnings, hours and other conditions of work, designed to ensure a just share

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of the fruits of progress to all and a minimum living wage to all employed and in need of such protection;<sup>17</sup>

(iii) promoting social dialogue and tripartism as the most appropriate methods for:

- adapting the implementation of the strategic objectives to the needs and circumstances of each country;
- translating economic development into social progress, and social progress into economic development;
- facilitating consensus building on relevant national and international policies that impact on employment and decent work strategies and programmes; and
- making labour law and institutions effective, including in respect of the recognition of the employment relationship, the promotion of good industrial relations and the building of effective labour inspection systems; and

(iv) respecting, promoting and realizing the fundamental principles and rights at work, which are of particular significance, as both rights and enabling conditions that are necessary for the full realization of all of the strategic objectives, noting:

- that freedom of association and the effective recognition of the right to collective bargaining are particularly important to enable the attainment of the four strategic objectives; and
- that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

[...]

## II. METHOD OF IMPLEMENTATION

[...]

B. At the same time, Members have a key responsibility to contribute, through their social and economic policy, to the realization of a global and integrated strategy for the implementation of the strategic objectives, which encompass the Decent Work Agenda outlined in Part I of this Declaration. Implementation of the Decent Work Agenda at national level will depend on national needs and priorities and it will be for member States, in consultation with the representative organizations of workers and employers, to determine how to discharge that responsibility. To that end, they may consider, among other steps:

- (i) the adoption of a national or regional strategy for decent work, or both, targeting a set of priorities for the integrated pursuit of the strategic objectives;
- (ii) the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made;

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<sup>17</sup> Ed. note: In drafting this text, priority was given in each language to concordance with the corresponding official version of article III(d) of the Declaration of Philadelphia adopted by the International Labour Conference in 1944.

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- (iii) the review of their situation as regards the ratification or implementation of ILO instruments with a view to achieving a progressively increasing coverage of each of the strategic objectives, with special emphasis on the instruments classified as core labour standards as well as those regarded as most significant from the viewpoint of governance covering tripartism, employment policy and labour inspection;
  - (iv) the taking of appropriate steps for an adequate coordination between positions taken on behalf of the member State concerned in relevant international forums and any steps they may take under the present Declaration;
  - (v) the promotion of sustainable enterprises;
  - (vi) where appropriate, sharing national and regional good practice gained from the successful implementation of national or regional initiatives with a decent work element; and
  - (vii) the provision on a bilateral, regional or multilateral basis, in so far as their resources permit, of appropriate support to other Members' efforts to give effect to the principles and objectives referred to in this Declaration.

[...]

## ANNEX FOLLOW-UP TO THE DECLARATION

[...]

### II. ACTION BY THE ORGANIZATION TO ASSIST ITS MEMBERS

#### *Administration, resources and external relations*

A. The Director-General will take all necessary steps, including making proposals to the Governing Body as appropriate, to ensure the means by which the Organization will assist the Members in their efforts under this Declaration. Such steps will include reviewing and adapting the ILO's institutional practices and governance as set out in the Declaration and should take into account the need to ensure:

- (i) coherence, coordination and collaboration within the International Labour Office for its efficient conduct;
- (ii) building and maintaining policy and operational capacity;
- (iii) efficient and effective resource use, management processes and institutional structures;
- (iv) adequate competencies and knowledge base, and effective governance structures;
- (v) the promotion of effective partnerships within the United Nations and the multilateral system to strengthen ILO operational programmes and activities or otherwise promote ILO objectives; and

- 
- (vi) the identification, updating and promotion of the list of standards that are the most significant from the viewpoint of governance.<sup>18</sup>

[...]

## **2. Recovering from the crisis: A Global Jobs Pact, 2009**

INTERNATIONAL LABOUR CONFERENCE  
NINETY-EIGHTH SESSION  
GENEVA, 2009

[...]

### III. DECENT WORK RESPONSES

10. The above principles set the general framework within which each country can formulate a policy package specific to its situation and priorities. They equally should inform and support action by the multilateral institutions. Set out below are some specific policy options.

[...]

#### STRENGTHENING RESPECT FOR INTERNATIONAL LABOUR STANDARDS

14. International labour standards create a basis for and support rights at work and contribute to building a culture of social dialogue particularly useful in times of crisis. In order to prevent a downward spiral in labour conditions and build the recovery, it is especially important to recognize that:

- (1) Respect for fundamental principles and rights at work is critical for human dignity. It is also critical for recovery and development. Consequently, it is necessary to increase:
  - (i) vigilance to achieve the elimination and prevention of an increase in forms of forced labour, child labour and discrimination at work; and
  - (ii) respect for freedom of association, the right to organize and the effective recognition of the right to collective bargaining as enabling mechanisms to productive social dialogue in times of increased social tension, in both the formal and informal economies.
- (2) A number of international labour Conventions and Recommendations, in addition to the fundamental Conventions, are relevant. These include ILO instruments concerning employment policy, wages, social security, the employment relationship, the termination of employment, labour administration and inspection, migrant workers, labour conditions on public contracts, occupational safety and health, working hours and social dialogue mechanisms.

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<sup>18</sup> The Labour Inspection Convention, 1947 (No. 81), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and those standards identified on subsequently updated lists.

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- (3) The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is an important and useful tool for all enterprises, including those in supply chains, for responding to the crisis in a socially responsible manner.

#### SOCIAL DIALOGUE: BARGAINING COLLECTIVELY, IDENTIFYING PRIORITIES, STIMULATING ACTION

15. Especially in times of heightened social tension, strengthened respect for, and use of, mechanisms of social dialogue, including collective bargaining, where appropriate at all levels, is vital.

16. Social dialogue is an invaluable mechanism for the design of policies to fit national priorities. Furthermore, it is a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery. Successfully concluded, it inspires confidence in the results achieved.

17. Strengthening capacities for labour administration and labour inspection is an important element in inclusive action on worker protection, social security, labour market policies and social dialogue.

[...]

#### V. ILO ACTION

26. The ILO has recognized authority in key areas of importance to respond to the crisis and to promote economic and social development. The ILO's capacity for research and economic and social data analysis is important in this context. Its expertise should be at the centre of its work with governments, social partners and the multilateral system. It includes, but is not limited to:

- employment generation;
- social protection design and financing models;
- active labour market programmes;
- minimum wage setting mechanisms;
- labour market institutions;
- labour administration and labour inspection;
- decent work programmes;
- enterprise creation and development;
- international labour standards – implementation and monitoring;
- social dialogue;
- data collection;
- gender equality in the labour market;
- workplace programmes on HIV/AIDS; and



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- labour migration.

[...]

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## **B. Resolutions and Conclusions adopted by the International Labour Conference**

### **Labour Administration**

#### **1. Resolution concerning the prevention of accidents, submitted by the General Committee on accident prevention, 1928**

INTERNATIONAL LABOUR CONFERENCE  
ELEVENTH SESSION  
GENEVA, 1928

Whereas the results obtained by legal regulation and State inspection in the industrial countries with the longest experience of accident prevention show that, while those methods are capable of being, and should be, improved and developed, they are insufficient by themselves to prevent a large number of accidents which are due to such causes as (1) unsafe practices and arrangements, (2) fatigue, (3) want of reasonable care on the part of individual workers, (4) lack of appreciation by new, and especially young, workers of the dangers to which they are or may be exposed, and failure on the part of the management to arrange for adequate instruction of such workers,

The Conference has unanimously adopted the following resolutions and urges that they should be given, most earnest consideration by Governments in consultation with employers' and workers' organisations in the chief accident producing industries with a view to their early application.

1. The Conference is of opinion that the time has come to attempt to reach a higher standard of safety by the development of new methods, and believes that the greatest advance can be made on the lines of the movement which has received the name of the "Safety first" movement, and which implies in its application to industry (i) the recognition of accident as an essential part of the organisation of the works: (ii) common interest and endeavour on the part of employers and workers in the individual works in seeking to promote a higher standard of safety.

2. While the new methods to be adopted will vary in different industries and in different countries, it is essential (a) that the management, officials and foremen in the individual works should foster throughout the works a due appreciation of the necessity of avoiding accidents, and make it recognised in the works that safety is regarded as a consideration of the highest importance, (b) that all possible steps should be taken to interest the workers in the work of accident prevention.

3. The safety organisation in a works should include, among other methods, arrangements for a works investigation of every accident occurring in the works, and the consideration of the methods to be adopted for preventing a recurrence: the systematic supervision of the works, machinery and plant for the purpose of ensuring safety, and in particular of seeing that all safeguards and other safety appliances are maintained in proper order and position: the explanation to new, and especially young workers, of the possible dangers of the work or the machinery or plant connected with their work the organisation of first aid and ambulance arrangements, and the encouragement of suggestions from the persons employed for rendering work safer.

4. Common interest and endeavour on the part of the employers' and workers' organisations in each country, and co-operation with the State, are equally important.

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Methods which have been found successful include (a) conferences of employers' and workers' representatives in particular industries and the Government inspectors, (b) establishment of standing district or national, or both district and national, committees for the purpose of reviewing periodically the progress made and considering what further improvements can be adopted.

5. International, consultation and exchange of experience between the responsible Government Departments in the highly industrialised countries, as also between the organizations of the employers, between the organisations of the workers, and between the research and other bodies and institutions concerned with the promotion of safety in those countries should be developed. Such international co-operation would be facilitated if it were found possible for the industrialised countries to agree, in respect of any of the chief accident producing industries, upon a uniform basis for the compilation of accident statistics.

6. The Conference suggests that as a means of following up the results of the present Conference, stimulating the adoption of safety first methods, and promoting international consultation in the manner suggested in the last preceding Resolution, meetings of representatives from the highly industrialised countries 'should be arranged from time to time in collaboration with the International Labour Office, to exchange information and consult and to review the progress made.

**2. *Resolution concerning statistics of real wages, submitted by the Committee on statistics, 1938***

INTERNATIONAL LABOUR CONFERENCE  
TWENTY-FOURTH SESSION  
GENEVA, 1938

Whereas the utility of the statistics of wages and hours of work to be compiled in pursuance of the provisions of the Draft Convention on statistics of wages and hours of work in the principal mining and manufacturing industries and in agriculture would be enhanced if information were available as to the real value of wages, as measured by their purchasing power,

The Conference urges the International Labour Office to encourage the compilation and publication of the statistical data required for international comparisons of real wages and to continue and extend its studies on this subject.

**3. *Resolution concerning supplementary statistics of wages and hours of work, submitted by the Committee on statistics, 1938***

INTERNATIONAL LABOUR CONFERENCE  
TWENTY-FOURTH SESSION  
GENEVA, 1938

Whereas the Fifth Conference of Official Labour Statisticians prepared a recommendation concerning statistics of wages and hours of work supplementing the provisions of the proposed Draft Convention on statistics of wages and hours of work in the principal mining and manufacturing industries and in agriculture, and

Whereas Article 24 of the Draft Convention provides that the Governing Body may communicate to the Members of the Organisation proposals for improving and amplifying

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the statistics compiled in pursuance of this Convention and that each Member shall indicate in its annual report upon the application of the Convention the extent to which it has given effect to such proposals,

The Conference, by this resolution, requests the Governing Body to arrange that the proposals set forth on pages 110 and 112 of the grey-blue report and appended hereto be examined in accordance with the provisions of Article 24 of the Convention and that in the meantime this resolution, together with the appendix, be communicated to the various Governments at the earliest possible date.

1. (1) At least once every ten years, the statistics of average earnings and of hours actually worked relating to wage earners employed in the principal mining and manufacturing industries, including building and construction, should give separate figures for each of the principal occupations in each industry.

(2) These statistics:

(a) should show the number of workpeople grouped according to the amount of their earnings; and

(b) should be given by sex and by age groups.

2. (1) Statistics showing the aggregate amount of wages paid per annum in each of the principal industries in mining and manufacture, including building and construction, should be compiled regularly and where possible at annual intervals.

(2) An approximate indication should be given of the extent to which the returns are representative of all employed persons.

3. Statistics showing average annual earnings of workers employed in each of the principal industries in mining and manufacture, including building and construction, should be compiled at intervals not exceeding three years.

4. The statistics of time rates of wages should so far as possible be accompanied by:

(a) indications as to the number of workers covered, and

(b) any information which may be available as to the relation between the time rates of wages and actual earnings

#### **4. *Resolution concerning statistics of wages and hours of work in agriculture, submitted by the Committee on statistics, 1938***

INTERNATIONAL LABOUR CONFERENCE  
TWENTY-FOURTH SESSION  
GENEVA, 1938

Whereas the Fifth Conference of Official Labour Statisticians, in its report of 2 October 1937, “considered it very desirable that in view of the special problems connected with the compilation of statistics of hours of work, wages and other factors in the remuneration of agricultural workers, these questions should be discussed at a special Conference of Labour Statisticians to be held in the near future”; and

Whereas the International Labour Conference at its Twenty-fourth Session has adopted a Draft Convention on statistics of wages and hours of work in the principal mining and manufacturing industries and in agriculture;

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The Conference requests the Governing Body of the International Labour Office to consider the advisability of convening at an early date a special technical conference to examine the methods of compiling statistics of the remuneration and hours of work of persons employed in agriculture, with a view to the improvement and amplification of the statistics to be compiled in pursuance of the Convention.

**5. Resolution on collaboration between Governments, workers and employers in the planning and application of public policies, 1941**

INTERNATIONAL LABOUR CONFERENCE  
SPECIAL SESSION  
NEW YORK, NY AND WASHINGTON, D.C., 1941

Whereas workers and employers of any country are so vital to the production and general mobilisation and defence effort of any nation; and

Whereas wisdom and justice both dictate that the workers and employers of each country should by virtue of their importance to these efforts be accorded a voice in the determination of their economic and social interests:

The Conference recommends that in agencies set up by public authority which include among their functions the planning and application of public policies which directly or indirectly affect the interest of workers and employers, the policy-making and administrative agencies should include representatives and responsible spokesmen of workers and employers acting jointly with their Governments.

**6. Resolution concerning the exchange of information between the International Labour Office and the authorities and organisations of employers and workers in dependent territories, 1945<sup>19</sup>**

INTERNATIONAL LABOUR CONFERENCE  
TWENTY-SEVENTH SESSION  
PARIS, 1945

Whereas special problems may arise in the application to dependent territories of labour legislation, 'including labour legislation resulting from the decisions of the International Labour Conference; and

Whereas the exchange of information between the International Labour Office and the authorities and organisations of employers and workers in dependent territories would be mutually advantageous;

The Conference invites the States Members responsible for dependent territories to take all such steps as they may deem appropriate to promote the exchange of information between the International Labour Office and the authorities and organisations in the dependent territories for which they are responsible, as, for example, by inviting the International Labour Office to send delegations of the Governing Body or of the Committee on Social Policy in Dependent Territories to acquaint themselves at first hand with conditions in the territories concerned.

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<sup>19</sup> Adopted on 2 November 1945.

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**7. Resolution concerning the Placing on the Agenda of the 1950 Conference of the Question of Industrial Relations comprising Collective Agreements, Conciliation and Arbitration and Co-operation between Public Authorities and Employers' and Workers' Organisations, 1949<sup>20</sup>**

INTERNATIONAL LABOUR CONFERENCE  
THIRTY-SECOND SESSION  
GENEVA, 1949

The Conference expresses the desire that the question of industrial relations comprising collective agreements, conciliation and arbitration and co-operation between public authorities and employers' and workers' organisations should be put on next year's agenda. It requests the Governing Body to review the agenda of the 1950 Conference with a view to determining whether it would be desirable to modify this agenda by postponing one of the other items thereon.

**8. Resolution concerning the Placing on the Agenda of the Next General Session of the Conference of the Question of Minimum Wage Fixing Machinery in Agriculture, 1950<sup>21</sup>**

INTERNATIONAL LABOUR CONFERENCE  
THIRTY-THIRD SESSION  
GENEVA, 1950

The Conference,

Having approved the report of the Committee appointed to examine the seventh item on its agenda;

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention and a Recommendation relating to the adoption of minimum wage fixing machinery in agriculture,

Decides to place on the agenda of its next general session the question of minimum wage fixing machinery in agriculture with a view to final decision on a Convention and a Recommendation on the subject.

**9. Resolution concerning the Placing on the Agenda of the Next General Session of the Conference of Questions relating to Co-operation at the Level of the Undertaking and to Co-operation between Public Authorities and Employers' and Workers' Organisations at the Level of the Industry and at the National Level, 1951<sup>22</sup>**

INTERNATIONAL LABOUR CONFERENCE  
THIRTY-FOURTH SESSION  
GENEVA, 1951

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<sup>20</sup> Adopted on 1 July 1949.

<sup>21</sup> Adopted on 30 June 1950.

<sup>22</sup> Adopted on 29 June 1951.

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The Conference,

Having before it the sixth item on its agenda dealing with co-operation between public authorities and employers' and workers' organisations;

Having realised that owing to lack of time it was materially impossible to study the whole of this item during its present session;

Having decided consequently to limit its deliberations to the question of co-operation at the level of the undertaking;

Having approved the report of the Committee appointed to consider the sixth item on its agenda;

Decides:

- (1) to put on the agenda of its next general session the question of co-operation at the level of the undertaking with a view to the adoption of international regulations in the form of a Recommendation at that session;
- (2) to instruct the Office to prepare for submission to Governments with a view to a first discussion next year a draft text containing, as model guiding principles, examples of good practice concerning consultation and co-operation at the level of the undertaking, which should be taken into account in legislation or in negotiations concerning arrangements for co-operation made on a voluntary basis in individual cases;
- (3) to put on the agenda of its next general session for a first discussion the question of co-operation between public authorities and employers' and workers' organisations at the level of the industry and at the national level.

## **10. Resolution concerning Publication of Labour Laws, 1958<sup>23</sup>**

INTERNATIONAL LABOUR CONFERENCE  
FORTY-SECOND SESSION  
GENEVA, 1958

The General Conference of the International Labour Organisation,

Believing that under any system of laws a fundamental guarantee of justice is the prompt and effective publication of laws, decrees and regulations affecting workers,

Believing also that any worker affected by such laws, decrees and regulations is entitled to know how they affect him,

Believing further that it is a fundamental violation of justice to enforce such measures without prior public disclosure, and

Noting that the success of the International Labour Organisation as an agency for promoting knowledge and understanding of working conditions in the world depends upon its receiving accurate and complete information concerning such laws, decrees and regulations from the States Members;

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<sup>23</sup> Adopted on 20 June 1958 by 143 votes to 0, with no abstentions.

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1. Urges that States Members of the International Labour Organisation publish promptly laws, decrees and regulations which affect the terms and conditions of employment of workers;

2. Urges that States Members take all appropriate measures to ensure that such laws, decrees and regulations are published and distributed in such a way as to come to the attention of all those concerned, and that to this end written translations and sufficiently widely circulated information in the official languages of the countries concerned be used, so as to apprise the people concerned of their rights and obligations;

3. Urges employers' and workers' organisations to explain to their members the scope of such laws, decrees and regulations;

4. Requests States Members to communicate regularly to the International Labour Office the texts of laws, decrees and regulations relating to terms and conditions of employment as well as any information relating thereto which they deem it useful to add.

**11. Resolution concerning National Labour Departments and Other Public Institutions Responsible for the Administration of Labour Matters, 1966<sup>24</sup>**

INTERNATIONAL LABOUR CONFERENCE  
FIFTIETH SESSION  
GENEVA, 1966

The General Conference of the International Labour Organisation,

Recognising the important role of national labour departments in the framing and implementation of labour policy and in the economic and social development of member States, particularly in relation to the development and utilisation of human resources adequate in number and skills for industrial development,

Considering the vital role of labour ministries and other public institutions responsible for the administration of labour matters in contributing to the stability and effectiveness of governments of member States through the establishment of good labour relations and the active participation of employers' and workers' organisations in the formulation and implementation of programmes and plans for industrial development,

Recalling that at its 36th Session the International Labour Conference held an extensive exchange of views on the organisation and working of national labour departments and adopted guidelines in the form of "Observations and Conclusions regarding the Organisation and Working of National Labour Departments" and recognised the usefulness of further study of the subject;

Invites the Governing Body of the International Labour Office—

- (a) to call the special attention of governments of member States to the importance of strong labour departments to assist in the framing and implementation of governmental programmes of economic and social development, utilisation of human resources, labour law and labour relations, occupational safety and health and—in certain countries— social security;

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<sup>24</sup> Adopted on 20 June 1966 by 203 votes to 1, with 3 abstentions.



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- (b) to intensify efforts through technical co-operation and other appropriate means to encourage member States to develop and strengthen their labour departments;
  - (c) to consider the desirability of again placing an item on the agenda of a future session of the Conference for general discussion to examine the organisation and working of national labour departments and other public institutions responsible for the administration of labour matters in the light of developments since 1953.

**12. Resolution to Place on the Agenda of the Next Ordinary Session of the Conference an Item Entitled “Labour Administration: Role, Functions and Organisation”, 1977<sup>25</sup>**

INTERNATIONAL LABOUR CONFERENCE  
SIXTY-THIRD SESSION  
GENEVA, 1977

The General Conference of the International Labour Organisation,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of governments, proposals for a Convention and a Recommendation concerning labour administration;

Decides that an item entitled “Labour Administration: Role, Functions and Organisation” shall be included in the agenda of its next Ordinary Session for a second discussion with a view to the adoption of a Convention and a Recommendation.

**13. Resolution concerning Standards on Labour Statistics<sup>26</sup>, 1984**

INTERNATIONAL LABOUR CONFERENCE  
SEVENTIETH SESSION  
GENEVA, 1984

The General Conference of the International Labour Organisation,

Having adopted the report of the Committee appointed to consider the sixth item on the Agenda,

Noting the need to keep up to date the standards and guide-lines established under the auspices of the International Labour Organisation with regard to the concepts, definitions and methodology used in the collection, compilation and publication of labour statistics;

Considers that the International Conference of Labour Statisticians should be convened more frequently than in the past and, in particular, that its next meeting should be held no later than 1987.

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<sup>25</sup> Adopted on 20 June 1977.

<sup>26</sup> Adopted on 25 June 1984.

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**14. Resolution to Place on the Agenda of the Next Ordinary Session of the Conference an Item entitled Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), 1984**

INTERNATIONAL LABOUR CONFERENCE  
SEVENTIETH SESSION  
GENEVA, 1984

The General Conference of the International Labour Organisation,

Having adopted the report of the Committee appointed to consider the Sixth Item on the Agenda,

Having in particular approved as general conclusions, with a view to the consultation of governments, proposals for a Convention and a Recommendation concerning labour statistics;

Decides that an item entitled "Revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)" shall be included in the Agenda of its next Ordinary Session for a second discussion, with a view to the adoption of a Convention supplemented by a Recommendation.

**15. Resolution concerning Statistics of Productivity, 1985<sup>27</sup>**

INTERNATIONAL LABOUR CONFERENCE  
SEVENTY-FIRST SESSION  
GENEVA, 1985

The General Conference of the International Labour Organisation,

Having adopted the report of the Committee established to examine the revision of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63),

Requests the Governing Body of the International Labour Office to give high priority in its future programme proposals to work on the problems of productivity measurement with a view to providing, by the beginning of the next decade, guidelines concerning concepts, definitions and methodologies that can be used by Members which wish to develop statistics of productivity in pursuance of the goals set forth in Paragraph 15 of the Labour Statistics Recommendation, 1985. Such work should be undertaken in collaboration with other competent statistical agencies in the United Nations family.

**16. Resolution concerning the role of private employment agencies in the functioning of labour markets, 1994<sup>28</sup>**

INTERNATIONAL LABOUR CONFERENCE  
EIGHTY-FIRST SESSION  
GENEVA, 1994

The General Conference of the International Labour Organization, meeting at its 81st Session (1994),

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<sup>27</sup> Adopted on 24 June 1985.

<sup>28</sup> Adopted on 23 June 1994.

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Having undertaken a comprehensive review of the functions and practices of employment agencies on the basis of Report VI entitled “The role of private employment agencies in the functioning of labour markets”,

Recalling that the Governing Body at its 254th Session (November 1992) decided to place the item on the agenda of the 81st Session of the International Labour Conference as a general discussion item,

Having regard to the Employment Service Convention, 1948 (No. 88), and its accompanying Recommendation, 1948 (No. 83), as well as the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96);

Takes note of the following conclusions and invites the Governing Body of the International Labour Office to request the Director-General to give due consideration to them:

## CONCLUSIONS CONCERNING THE ROLE OF PRIVATE EMPLOYMENT AGENCIES IN THE FUNCTIONING OF LABOUR MARKETS

### *Introduction*

1. The Committee discussed the role of private employment agencies in the functioning of labour markets against the background of widespread concern with unemployment and poverty. The ILO strived to make full and productive employment the top priority on the agenda of policy-makers. This social objective should be supported by public, economic and financial policies which enhance sustainable economic development. Developing countries were not alone in facing increasing difficulties to ensure that there was support for the unemployed, those out of the labour force, the working poor and those having to face poor conditions of work.

Social and economic issues, as well as policy options, were closely interrelated and had both short- and longer-term dimensions. It was in this wider framework that the Committee had reviewed the contributions made by public and private employment agencies.

2. The Committee had grouped its conclusions under 12 headings ordered in sequence from A to L as follows : (A) definition of a well-functioning labour market; (B) labour-market policy and actors in the labour market; (C) the role of public employment services (PES); (D) definition and typology of private employment agencies (PREA); (E) place and role of PREA; (F) practices of PREA; (G) objective and scope of regulations; (H) means for sound practice by PREA other than traditional regulation; (I) relationship between PES and PREA; (J) the case for better and increased cooperation; (K) relevant ILO standards; (L) prospects for future ILO standards.

### *A. Definition of a well-functioning labour market*

3. The deliberations in the Committee clearly showed that all those involved in the activities of the labour market - workers, their representatives, employers and governments - took great interest in the functioning of the labour market and were concerned about the developments and ongoing changes in that market. The Committee found that all these interests and concerns formed a solid basis for the pursuit of the goal of improving the functioning of labour markets throughout the world, to create new jobs, to help jobseekers to find suitable jobs so that they could support themselves and their families and to help employers to develop their businesses through the recruitment of skilled and suitable workers. The Committee also found that there was still total consent on the fundamental principle, laid down in the Constitution of the International Labour Organization, that labour is not a commodity and that the freedom of jobseekers to search for jobs and the

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right for employers to take decisions concerning the recruitment of workers were fundamental elements in free market and mixed economies. The Committee also stressed the principles of freedom of association and collective bargaining as well as the promotion of employment creation in an industrial relations context that was effective, and in which workers' rights were fully respected.

4. These principles, however, did not exclude the possibility that measures might be needed to improve the functioning of labour markets and to look closely into the present international standard, namely Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). The Committee thoroughly discussed the activities of the labour market and examined in depth the actions of those who operated in the labour market.

5. There was general consent that labour markets were no longer stable, that changes in international and national economies had a great impact on labour markets and that there was a general acceleration in those changes which could have enormous consequences, both for enterprises and not least for workers and their families. The conditions which prevailed at the beginning of the twentieth century, and which influenced the labour standard under discussion in the Committee, no longer existed in most countries, whereas they were still present in others. There seemed to be a general worldwide trend to recognize the need to respond to change by employers, workers and governments when it came to forms of employment, interventions to influence the markets and the organization of workplaces.

6. Three fundamental functions could be identified in the labour market. First, it was a market-place where jobseekers and employers had the opportunity to find each other. Secondly, it was a source of information about jobseekers and vacancies which could be used by jobseekers, employers and governments to follow changes in the market in order to take necessary decisions concerning that market.

Thirdly, it was a place where States could introduce the necessary programmes and incentives to influence the functioning of the market.

#### *B. Labour-market policy and actors in the labour market*

7. When looking at the labour market and its function as a market-place, the Committee found that a wide range of activities took place to help jobseekers and employers to find each other and conclude contracts of employment. In many countries, public employment agencies were predominant whereas private actors, both those working for profit and non-profit organizations, appeared more frequently in others. Very few countries seemed to comply with the general principles of Convention No. 96 that public agencies should be the rule and private employment agencies should be abolished as soon as possible.

8. The ILO report defined at least 16 different varieties of private employment agencies. It was clear that economic change would cause other kinds of agencies to develop in the future. The Committee recognized the freedom of employers, subject to national law and practice, to fulfil their recruitment needs through the use of these agencies.

9. The Committee also found that it was time to recognize the need for a wide variety of activities to be undertaken to help jobseekers and employers to find each other and to increase the activities on the market-place for jobs. Both public and private actors complemented each other in the market-place.

10. The Committee found, however, that it was a fundamental responsibility of States to see to it that the labour market was functioning well and to assume that responsibility by

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guaranteeing that there was an adequately-funded and well-functioning public employment service free of charge for jobseekers.

11. When it came to information about the labour market, the Committee found that it should be the responsibility of States to guarantee that information about jobseekers and vacancies was available to employers and workers, and that adequate statistical information existed to meet the need for action on the labour market. Whether the gathering and distribution of information should be public or private was not an issue to be determined by international labour standards, since traditions, legal frameworks and national practices varied between member States.

In the upgrading of national employment market information systems and networking it seemed desirable, however, that the ILO and other international agencies should, upon request, provide assistance to developing countries and to those countries undergoing transformation to market economies. This would enable them to collect, analyse and disseminate accurate and timely labour market information in establishing and developing databanks.

12. The Committee firmly believed that States must take care to guarantee the right of individuals to have their personal integrity protected when information was processed on the labour market.

13. The Committee found that it was an important role for States, through employment programmes and other means, to influence the labour market in order to improve its functioning and facilitate employment for all jobseekers, including the unskilled and the vulnerable jobseekers such as workers with family responsibilities, on the basis of non-discrimination and freedom of access to the labour market. The importance of government activities to create new jobs and to improve possibilities for jobseekers and employers to enter into contracts of employment remained totally undisputed.

14. The background for the conclusions as drawn up by the Committee were further discussed in the following sections.

#### *C. The role of public employment services (PES)*

15. The Committee expressed its continuing support for the principles set out in Employment Services Convention, 1948 (No. 88), and, in particular, the duty of the employment services to ensure, where necessary, in cooperation with other public and private bodies concerned, the best possible organization of the labour market.

16. Having recognized this essential role, governments had generally given these services the financial and other means to plan and implement their labour market policies. In order to implement these policies, they had mainly concentrated on placement, guidance, employment training, labour market information, programmes for job, skill and geographical mobility, promotion and management of subsidized employment schemes, unemployment insurance, etc. In some countries, these programmes had been placed under the responsibility of several public institutions but remained coordinated by the PES.

17. For a very long time some countries were split among those which proceeded on the assumption that the labour market worked best when it was managed exclusively by public entities, mainly the PES, and those which took the view that the labour market worked best when it permitted PREA to operate side by side with PES.

18. Standards adopted by the ILO on the subject in 1949 clearly showed that the predominant view was that the labour market works best in the absence, or with the very limited presence, of PREA. That view also seemed to have been supported by the number of governments which had ratified the relevant ILO Conventions in this field.

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19. Given the dynamic conditions of the labour market in recent years, it had become clear that the growing role and place of well-functioning PREA could be positive and that the essential role played by the PES had been and must be maintained. It was the general view that only a public entity such as the PES could be made responsible for such functions as management of unemployment insurance, labour-market information, management of special programmes to lead the most vulnerable jobseekers to the threshold of employability, and the management of subsidized job-promotion schemes.

20. For those reasons, the Committee believed that any consideration of the role and functions of PREA would be incomplete if considered in isolation from those of PES or outside the context of an effective labour market policy. Moreover, in view of their overall responsibilities for the labour market, the Committee found that some States might want to maintain a monopoly in those functions which they considered appropriate.

*D. Definition and typology of private employment agencies (PREA)*

21. PREA may be defined as private firms directly or indirectly providing a service in the labour market. The definition proposed in Chapter 2 of the ILO report could be considered as being both too extensive and too restrictive when referring to specific national conditions. Similarly, only national situations could give precise substance to the notion of *private*, which could relate to the nature of the capital, the type of law governing its activities or to whether the agency was profit or non-profit making. However, the definition in the ILO report was a useful reference for national circumstances.

22. Similar considerations applied concerning the typology proposed in the ILO report. In some countries some of the agencies listed were irrelevant or non-existent, or classified as service firms outside the employment field. In other countries, PREA were grouped into two categories, those providing a service (brokers or otherwise) in a one-to-one contractual relationship and those establishing a triangular contractual relationship, such as in the case of temporary work agencies.

In other countries a legal distinction was made according to whether agencies, whatever their activity, were profit or non-profit making. The Committee considered it useful, however, for the ILO to continue to build on the classification provided in the report in order to make available for permanent future reference, at the request of governments, employers or workers organizations, an updated description of the agencies contained in the typology. This should not, however, preclude the pursuit of a more generic approach of describing PREA when considering a revised standard.

23. Temporary work agencies were one of the major types of firms mentioned in the ILO typology. The role that these agencies played in the market, the very particular nature of the triangular relationship which they entered into, and the legal problems deriving therefrom, explained why some governments had enacted special laws to regulate their activities. In some of these cases temporary work agencies were dealt with as quite distinct agencies.

24. The Committee considered that certain types of agency that were scarcely mentioned in the ILO report, and which operated in markets of developing countries, deserved special attention and possible regulation by national governments in relation to abuses which are committed, particularly in the case of contract labour agencies which hire home workers for processing particular goods (e.g. cigarette rolling, hides, etc.) or those that charge fees from jobseekers in exchange for the promise of employment abroad. These agencies should be considered in any future ILO discussion of private employment agencies.

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### *E. Place and role of PREA*

25. The Committee acknowledged that in a rapidly changing world, PREA had increased spectacularly in size and importance and had acquired growing recognition as important elements in labour markets.

26. The Committee concluded that well-functioning PREA could most certainly contribute to the effective functioning of the labour market. PREA could in many instances:

- reduce the time needed to fill vacancies;
- bring vacancies to the surface in the open market;
- sense changes in labour-market requirements and react quickly, avoiding delays and imbalances;
- match supply and demand of skills through relevant selection and recruitment methods, thus saving waste due to avoidable manpower turnover;
- satisfy needs not satisfactorily covered by public agencies due to the growing complexity in demand and supply of skills;
- build a bridge between unemployment and permanent employment by providing, mainly through temporary work assignments, gradual incorporation of jobseekers (especially new entrants or re-entrants) into the labour market;
- multiply the sources of information on job opportunities, thus increasing the overall stock of available information on the job market;
- reduce the time of deployment from one job to the other through outplacement techniques, thus contributing to a better labour force mobility;
- provide short-term employment training thus contributing to bridge the gap between the supply and demand of skills.

27. Overall, PREA activities added value to the labour market as marketplace forces had shown through the growing demand for the services they provided.

The fact that the activities of PREA had grown in quantity and quality and that governments had acknowledged that growth in their legislation, as shown in Chapter 3 of the ILO Report dealing with this question, were indicators of their contribution to the formation of wealth and of the value attributed by the market to the services offered by these agencies.

28. The Committee also noted that both workers' and employers' organizations might operate successfully as PREA.

### *F. Practices of PREA*

29. The Committee acknowledged the fact that there were numerous concerns regarding the ethics of PREA, and that PREA were sometimes singled out for poor practices in relation to the interests of workers and jobseekers. During the Committee's deliberations this perception was frequently directed at temporary work agencies (TWAs). Whatever the circumstances, the behaviour of PREA called for rules to prevent or discourage them from engaging in conduct or practices that undermined workers' rights, be

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they in the areas of wages, general conditions of work, industrial relations or safety and health.

30. Misconduct in the field of employment must be underscored because it was there that people's jobs and people's professional lives were at stake. Means must be available to deal with PREA which were found to be in violation of laws and regulations.

31. The circumstances in which PREA operated and the employment relationships they entered into with jobseekers could often lead to exploitation and improper conduct. The Committee had listened to allegations from Workers' members describing how some PREA had circumvented laws to help employers reduce workers' wages, to render trade union organization difficult or impossible, to ignore regulations concerning equal opportunities, to avoid paying benefits to which workers were legally entitled and to aid in the process of replacing permanent with temporary jobs.

32. The Committee's recognition of the importance and relevance of the role of PREA in labour markets should in no way be interpreted as an endorsement of any infringements they might commit of the laws that exist to protect workers' rights and interests. If new international standards were to be drawn up on this subject, special care should be taken to include provisions ensuring adequate protection against such abuses for workers and jobseekers alike to the extent that these were not guaranteed by other ILO standards.

33. Special attention should be given to those agencies which did placements abroad due to the serious consequences of some unfair practices for both workers and employers.

#### *G. Objective and scope of regulation*

34. The Committee acknowledged that PREA should not and might not wish to operate in an environment without rules. The Committee agreed that there might be several sources of rules governing the activities of PREA. These possible sources were: common business law, labour law, business and labour jurisprudence, collective agreements, specific laws and rules dealing with PREA, professional codes of conduct adopted by associations of PREA, internal rules of these agencies as well as ILO Conventions and Recommendations.

35. Each national context determined the nature of the rules governing PREA. The mix of rules originating from different sources depended on the maturity of the labour market, the culture and behaviour of its actors, existing traditions and practice in collective bargaining, etc. In some labour markets, when the risk of unprofessional behaviour was high, specific rules directed at PREA and the adoption of a licensing system might be recommended. In others, where a tradition of fair practice was well established, common business law complemented by codes of professional ethics could form a satisfactory regulatory framework. In others still, collective agreements could provide a reliable legal basis.

36. The Committee was well aware of the dangers of over-regulation. The worst that could happen was for PREA to be governed by several redundant, incompatible or contradictory rules emanating from different legal sources. For example, a law on the protection of confidentiality and a specific law on some PREA could be contradictory in regulating the treatment of computerized personal files. Similarly, different PREA competing in the same segment of the market and offering similar services could be regulated by different laws: common business law for one, a specific law for the other.

37. The general approach that the Committee supported was for governments to adopt a pragmatic attitude concerning the regulation of PREA. Governments should rely on the laws and rules in force, whenever possible, before considering specific regulations.



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38. In all cases, regulations concerning PREA should be designed in consultation with representatives of the business concerned and with workers' organizations.

*H. Means for sound practice by PREA other than traditional regulations*

39. The Committee recognized that governments might seek other means than the traditional legal or regulatory instruments to establish fair practice by those who had a role in the labour market. Some of these means consisted in setting common professional codes of conduct governing the following: professionals from the public or private sectors dealing with jobseekers; certification of the profession of employment adviser (in the same way as was done in some countries for translators or accountants); common job classification within the employment service sector, as well as social partner-based councils to discuss policy and performance.

40. Similarly, the Committee believed that both PES and PREA could agree, in a more or less formal way, on common standards of fair practice such as the fair use of appropriate selection tests, vacancy advertisements, interviewing and investigation methods prior to hiring.

*I. Relationship between PES and PREA*

41. In many countries PES and PREA tended to operate separately. PES were generally available to all jobseekers and served in particular the disadvantaged and the lower-skilled jobseekers. PREA addressed the market of the rare, specialized or higher skills where prior selection was crucial to hiring, the temporary job market, or specific segments of the market requiring particular services such as outplacement. Overlapping on the same market by PES and PREA was more the exception than the rule.

42. The Committee believed that there was scope for increased cooperation between the PES and PREA. Many PES could not afford to enter into direct competition, even where such competition might be beneficial. PES must, however, endeavour to offer the best range of services possible, in order to ensure that they fulfilled their social duties towards all jobseekers, including the disadvantaged, and offered the common employer a means to satisfy his staffing needs.

Labour-market cooperation between all the actors would assist in the provision of the broadest scope of services.

43. For this relationship to work effectively, the Committee would, for the most part, agree that fee charging by PES would not apply in relation to access to job vacancies.

*J. The case for better and increased cooperation*

44. The Committee expressed its firm support for all attempts to establish permanent cooperation between PES and PREA. It was indeed the Committee's opinion that cooperation was a desirable institutional form of behaviour.

45. Cooperation between public institutions and private employment firms was not normally established by law. Rather, it was the result of tradition, administrative culture and behaviour by all actors in the labour market.

46. Yet, measures could be taken by governments to promote cooperation. For example, the practice of using private firms to implement labour-market schemes could lead to more and better cooperation. Similarly, the decision to advertise vacancies in each other's premises, or to allow mutual access to computerized vacancy files could also be conducive to improved working relations. In some countries, inviting staff from PREA to specialized training or seminars conducted by PES can develop a spirit of cooperation and

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understanding. Exchanging staff or snaring premises can be other unconventional and efficient ways of building beneficial personal contacts among staff of both organizations.

47. In general, cooperation could best be achieved when the PES recognized its value and coordinated with PREA to build the broadest possible spectrum of programmes.

48. For some countries a network of PREA complementing the activities of the PES could best be established through joint planning, delegation of specific duties and sharing of information.

#### *K. Relevant ILO standards*

49. Three main ILO standards dealt, directly or indirectly, with the activities of PREA. These were the Employment Services Convention, 1948 (No. 88), and its corresponding Recommendation No. 83 and the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

50. Most Committee members found that the principles underlying Convention No. 96 were not relevant to their national situations. It appeared obvious that this Convention had been adopted in line with the provisions contained in the previous standard adopted on this question, namely the Fee-Charging Employment Agencies Convention, 1933 (No. 34), which openly opposed these institutions. The overt objective of Convention No. 96 was either to ban PREA or to place them under tight supervision by government authorities. As suggested in the preceding sections of this document, the Committee believed that all these principles, except the one referred to in paragraph 53 below, no longer corresponded to today's reality in modern labour markets.

51. Part II of Convention No. 96 appeared to be removed from current practice in most labour markets. The Committee was convinced that the four recent denunciations of this part of the Convention were only partial evidence of a more general loss of credibility toward the contents of this part of the standard.

52. Part III of Convention No. 96 in a number of respects did not reflect current realities: narrow scope (only the job brokerage service was considered); inflexible type of supervision (only the licensing system was envisaged); constraining (yearly renewal of licenses) or obsolete provisions in regard to current functioning of modern labour markets (notification to supervisory authority of fees charged to clients).

53. The Committee believed, however, that one provision contained in Convention No. 96 should be maintained, namely that concerning the payment of services offered by PREA. It was indeed essential to recall that, with very few exceptions such as services provided to high-level professionals and executives, the Committee remained in favour of the principle that fees should not be charged to the jobseeker.

#### *L. Prospects for future ILO standards*

54. The Committee held the view that the ILO should proceed to revise Convention No. 96.

55. It was the Committee's view that the revised standard should pursue the following objectives:

- set the pattern for response to the dynamics of changing labour-market functions and recall the role of its actors;

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- draw up general parameters to describe the main actors, namely, the PES and PREA, as well as the nature of the relationship both between themselves and with their clients;
  - establish general principles and provide guidance that protect:
    - (i) labour markets against poor and unethical practices;
    - (ii) workers' interests including where the stability of industrial relations' systems might be affected by some practices of PREA (these principles should consider the concerns of some (but not all) Committee members with regard to triangular employment relationships, including contract labour, TWAs and staff-leasing arrangements);
    - (iii) workers recruited in one country for work in another;
  - create environments that allow for the improved functioning of all employment agencies;
  - ensure that national governments would be free to determine how the above objectives would be met.

## **17. Resolution concerning tripartism and social dialogue, 2002**

INTERNATIONAL LABOUR CONFERENCE  
NINTIETH SESSION  
GENEVA, 2002<sup>29</sup>

The General Conference of the International Labour Organization,

Recalling the Constitution of the International Labour Organization,

Recalling Conventions Nos. 87, 98, 144, 150, 151 and 154, and the Recommendations accompanying them as well as Recommendation No. 113,

Underlining the founding of the International Labour Organization in 1919 as a unique tripartite structure with the objective of "universal and lasting peace",

Reaffirming the importance of the tripartite nature of the International Labour Organization, which is the only international organization where governments and representatives of workers' and employers' organizations can freely and openly exchange their ideas and experiences and promote lasting mechanisms of dialogue and consensus building,

Stressing that among the strategic objectives of the International Labour Organization is the strengthening of tripartism and social dialogue,

Aware that social dialogue and tripartism have proved to be valuable and democratic means to address social concerns, build consensus, help elaborate international labour standards and examine a wide range of labour issues on which the social partners play a direct, legitimate and irreplaceable role,

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<sup>29</sup> Adopted on 18 June 2002.

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Reaffirming that legitimate, independent and democratic organizations of workers and employers, engaging in dialogue and collective bargaining, bring a tradition of social peace based on free negotiations and accommodation of conflicting interests, therefore making social dialogue a central element of democratic societies,

Recalling the numerous challenges and opportunities facing the world of work in the framework of ongoing globalization and the importance of strengthening the collaboration between the social partners and governments in order to achieve appropriate solutions at national, regional and international levels and, most pertinently, in the International Labour Organization,

Recalling the essential role of the social partners in stable economic and social development, democratization and participative development and in examining and reinforcing the role of international cooperation for poverty eradication, promotion of full employment and decent work, which ensure social cohesion of countries,

Stressing that social dialogue and tripartism are modern and dynamic processes that have unique capacity and great potential to contribute to progress in many difficult and challenging situations and issues, including those related to globalization, regional integration and transition,

Emphasizing that the social partners are open to dialogue and that they work in the field with NGOs that share the same values and objectives and pursue them in a constructive manner; recognizing the potential for the International Labour Office to collaborate with civil society following appropriate consultations with the tripartite constituents,

Noting the valuable contributions of civil society institutions and organizations in assisting the Office in carrying out its work – particularly in the fields of child labour, migrant workers and workers with disabilities; and recognizing that forms of dialogue other than social dialogue are most useful when all parties respect the respective roles and responsibilities of others, particularly concerning questions of representation;

1. Invites the governments to ensure that the necessary preconditions exist for social dialogue, including respect for the fundamental principles and the right to freedom of association and collective bargaining, a sound industrial relations environment, and respect for the role of the social partners, and invites governments as well as workers' and employers' organizations to promote and enhance tripartism and social dialogue, especially in sectors where tripartism and social dialogue are absent or hardly exist:
  - (a) invites workers' organizations to continue to empower workers in sectors where representation is low in order to enable them to exercise their rights and defend their interests;
  - (b) invites employers' organizations to reach out to sectors where representation levels are low in order to support the development of a business environment in which tripartism and social dialogue can flourish.
2. Invites the Governing Body of the International Labour Office to instruct the Director-General to ensure that the International Labour Organization and its Office within existing resources of the Organization:
  - (a) consolidate the tripartite nature of the Organization – governments, workers and employers – legitimately representing the aspirations of its constituents in the world of work;

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- (b) continue to this end their efforts to strengthen employers' and workers' organizations to enable them better to collaborate in the work of the Office and be more effective in their countries;
  - (c) enhance the role of tripartism and social dialogue in the Organization, both as one of its four strategic objectives and as a tool to make operational all strategic objectives, as well as the cross-cutting issues of gender and development;
  - (d) promote the ratification and application of ILO standards specifically addressing social dialogue, as set out in the preamble above and continue to promote the ILO Declaration on Fundamental Principles and Rights at Work;
  - (e) promote the involvement of the social partners in a meaningful consultative process in labour reforms, including dealing with the core Conventions and other work-related legislation;
  - (f) carry out in-depth studies of social dialogue in collaboration with the Organization's constituents with a view to enhancing the capacity of labour administrations and workers' and employers' organizations to participate in social dialogue;
  - (g) reinforce the role and all the functions of the Social Dialogue Sector within the Office and in particular its capacity to promote social dialogue in all the strategic objectives of the Organization, and recognize the unique functions and roles of the Bureaux for Employers' and Workers' Activities within the Office and strengthen their abilities to provide services to employers' and workers' organizations worldwide in order to enable them to maximize the outcome of the Office's work;
  - (h) promote and reinforce the tripartite activities of the Organization to determine its policies and work priorities, and further develop technical cooperation programmes and other mechanisms with the social partners and governments to help strengthen their capacities, services and representation;
  - (i) reiterate in headquarters and in the field the importance of strengthening the tripartite structure of the International Labour Organization and to ensure that the Office works with and for the constituents of the Organization;
  - (j) ensure that the tripartite constituents will be consulted as appropriate in the selection of and relationships with other civil society organizations with which the International Labour Organization might work.

**18. *Resolution and Conclusions concerning labour administration and labour inspection, 2011***<sup>30</sup>

INTERNATIONAL LABOUR CONFERENCE  
HUNDRETH SESSION  
GENEVA, 2011

The General Conference of the International Labour Organization, meeting at its 100th Session, 2011,

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<sup>30</sup> Adopted on 16 June 2011.

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Having undertaken a general discussion on the basis of Report V, *Labour administration and labour inspection*,

Recognizing that labour administration and labour inspection are institutions for good governance at the service of ILO constituents and are essential to achieve the decent work objectives; to promote compliance with and enforcement of labour legislation; to protect workers' rights, including fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation; and to develop mechanisms for solving complex issues in the world of work,

Recognizing that labour ministries have a pivotal role to play in shaping social and economic policies as well as applying such policies in both the workplace and at the national level,

Affirming the urgent need to build, foster and maintain sound labour administration and inspection systems notwithstanding the financial and economic crisis, and to expand their coverage to all workers in an increasingly diverse global workforce, including workers in extended global supply chains, export processing zones, the informal economy and workers in a disguised employment relationship,

Recognizing that today's labour administrations' strategic, policy-making and coordinating roles are hampered in many countries by a lack of political support or a lack of financial, human or material resources,

Recognizing that sound labour administration and inspection systems are vital for the enforcement of labour standards, the promotion of social dialogue, social security, employment services, sustainable enterprises, and the development of employment policies,

Bearing in mind that labour administration and labour inspection have been ILO priorities since its foundation, and that the importance of strong and effective labour administration and inspection is recognized in the ILO Constitution, the Declaration of Philadelphia, the ILO Declaration on Social Justice for a Fair Globalization and the Global Jobs Pact, as well as several ILO Conventions, Recommendations and other instruments,

1. Adopts the following conclusions;
2. Invites the Director-General to bring these conclusions to the attention of the member States and employers' and workers' organizations; and
3. Invites the Governing Body of the International Labour Office to give due consideration to them in planning future action, especially within the technical cooperation programme and the delivery of Decent Work Country Programmes, and to request the Director-General to take them into account both when allocating other resources as may be available during the 2010-11 biennium and when implementing the programme and budget for the coming biennia.

#### CONCLUSIONS ON LABOUR ADMINISTRATION AND LABOUR INSPECTION

1. The principles of labour administration and labour inspection are grounded in international labour standards. These standards, notably the Labour Inspection Convention, 1947 (No. 81) and its Protocol of 1995, the Employment Service Convention, 1948 (No. 88), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), (Conventions Nos. 81, 122 and 129 are

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considered “governance standards”), the Labour Administration Convention, 1978 (No. 150), the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), are relevant to all countries regardless of their level of economic development. The ratification and implementation of these Conventions with respect for and the advancement of fundamental principles and rights at work, are essential to strengthen national systems of labour administration and labour inspection.

2. Effective labour administration systems, public employment services and labour inspection, are vital for good governance of labour matters and for economic and social progress. These systems can make decent work a reality in the workplace by enforcing labour standards and improving working and employment conditions, thus increasing accountability, occupational safety and health, competitiveness and productivity with social equity. At the same time, labour administration systems can help stimulate economic growth by developing and implementing economic and social policies designed to produce higher employment rates, social cohesion and decent work.

3. Experience from the recent financial and economic crisis has shown that labour administration has an essential role among government institutions, as good labour policies and efficient institutions can help to address difficult economic situations, by protecting workers and enterprises against the worst impact of an economic crisis and mitigating its economic and social consequences while facilitating economic recovery.

4. Ministries of labour and employment and their agencies are the core of labour administration systems throughout the world. They have a specific role to enforce labour laws and to provide information to workers and employers about their rights and responsibilities in order to protect workers, to enable and promote sound industrial relations including mediation and dispute resolution, to promote decent employment and better workplace practices, to ensure compliance with labour standards, and to improve the functioning of the labour market. Labour administration systems can also be instrumental in enforcing gender equality legislation and policy.

5. Governments should build effective labour administration and labour inspection systems through genuine and timely tripartite social dialogue. Effective tripartism requires respect for freedom of association. The presence of workers’ and employers’ organizations facilitates labour inspection.

6. The current weaknesses of labour administrations in many countries prevent ministries of labour from delivering adequate services to their citizens or meaningfully influencing policy-making processes. It is important to strengthen and increase the leadership role of ministries of labour in these countries in the coordination and development of employment and labour market policies and national development plans. Consultation with workers’ and employers’ organizations is essential.

7. The lack of resources constitutes a major obstacle to effective labour administration in many countries. In countries where available resources are at critically low levels, a substantial and sustained increase of resources is necessary. In these countries, as in all countries, the focus should be on developing and retaining skilled human resources, since no labour administration can work without specifically dedicated staff who are qualified and adequately trained and equipped.

8. Public employment services are fully part of a labour administration system. Strong coordination and regulation of these services are required at the national level with a view to promoting balanced and equitable policies in order to avoid abuses, including with respect to vulnerable workers, such as domestic and migrant workers and people with disabilities.

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9. Labour administration and inspection systems today operate in a rapidly changing environment characterized by dramatic economic, institutional, demographic and political transformations, including changing patterns of production, work organization, employment structures and relationships, labour migration and cross-border postings, outsourcing and extended global supply chains, and the expansion of the informal economy.

10. To cope with challenges in a rapidly changing world of work, labour administrations must continuously adapt and modernize. They should explore efficient and effective methods of governance and management and build tripartite partnerships as well as partnerships with other institutions and actors. However, any modernization effort must respect values such as the rule of law, tripartism, social dialogue at all levels, public interest, democracy, equity, good governance and transparency.

11. In their efforts to adapt and modernize, labour administration and labour inspection systems should take advantage of advances in information and communication technologies to improve their internal working methods and expand the range and accessibility of services for constituents while maintaining thorough inspections. A variety of online, mobile and networking technologies have the potential to increase efficiency and reduce costs, improve transparency, facilitate the collection and analysis of labour statistics, and assist with the dissemination of accessible information about labour laws and policies. While the adoption of new technologies is uneven between countries, developing nations can still greatly benefit from modest and cost-effective systems adapted to their own level of technological development.

12. As a main labour administration component, labour inspection is a public function and is at the core of effective labour law with wide powers and functions, including enforcement and sanctions that should be sufficiently dissuasive to deter violations of labour legislation while also providing corrective, developmental and technical advice, guidance, prevention tools and promoting workplace best practices. These functions should be regulated and balanced as part of a comprehensive compliance strategy in order to ensure decent working conditions and a safe working environment.

13. Labour inspection systems, particularly those in developing countries, face numerous challenges that are common to labour administrations as a whole, including the need for increased financial resources, more duly qualified inspectors, better equipment and better training, and improved recruitment procedures.

14. In order to ensure the integrity of labour inspection, conditions of service for labour inspectors should reflect gender equality and facilitate employment stability and personal security in the exercise of their functions, underpinned by an appropriate regulatory framework.

15. Adequate resources must be made available by member States for the design and implementation of budgeted national training programmes with a view to upgrading technical skills, reinforcing ethical behaviour and ensuring independence of labour inspectors (as required under Article 6 of ILO Convention No. 81).

16. Labour inspection must be a public prerogative and be in accordance with international labour standards. However, the past decades have seen a growth in private auditing initiatives such as the establishment of social reporting and private monitoring systems. There is a risk that some types of private initiatives could undermine public labour inspection. The issues of private compliance initiatives, self-regulation and potential public-private partnerships are deserving of closer examination by tripartite experts to be drawn together by the ILO. The Committee therefore recommends that the Governing Body consider such a tripartite meeting of experts.



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17. Promoting and enforcing decent working conditions, safety and health standards and respect for fundamental principles and rights at work are at the core of labour inspection activities. This includes, for example, action to combat undeclared work, child and forced labour. The provisions of labour law should apply equally to all workers and all workplaces. General compliance and preventive strategies are essential for ensuring fairness in the workplace and consequently sustainable enterprises and economic growth. These strategies should cover all workers, including those in the public sector, the informal economy, rural economy and agriculture and export processing zones (EPZs). It is unacceptable that some EPZs are exempted from basic national labour laws. Labour inspectors face the challenge of ensuring labour law compliance in workplaces that are difficult to detect (e.g. in the agricultural and construction sectors), or where the employment relationship is particular (home-based work, domestic work), or is difficult to identify (new forms of employment, outsourcing and complex supply chains). In this regard, the Employment Relationship Recommendation, 2006 (No. 198), should be noted.

18. It is important for governments to aim for an overall integrated strategy for inspection activities and to ensure the coordinating and supervisory role of the central authority recognized by Convention No. 81. Governments should also promote social dialogue in safety and health at sectoral and company level, particularly aimed at prevention. National tripartite dialogue could also focus on identifying specific prevention campaigns in sectors at risk or where widespread violations of labour law occur. Safety and health initiatives should where possible be based on the best available information and methods of work that are focused and effective.

19. For an overall effective system of labour inspection, the planning, programming and reporting cycle is also fundamental for achieving a coherent and objective basis for inspection action that responds to prevailing working conditions and anticipates geographic areas or sectors where targeted interventions may be required. However, many labour administrations are unable to provide comparable statistics. Collection by the ILO of basic national data on the number of inspectors and inspection activities and other related statistics could facilitate benchmarking and exchange of best practices.

20. In promoting a prevention culture and securing compliance, labour inspectors use a wide variety of interventions and tools including prevention initiatives as well as enforcement. Sufficiently dissuasive sanctions are an indispensable component of any labour inspection system. An appropriate mix of preventive measures such as risk evaluation, promoting a culture of leadership and best practice, implementing occupational safety and health measures, information guidance and awareness campaigns combined with sanctions should be adopted.

21. Prevention measures and enforcement sanctions are complementary to the overall purpose of promoting labour standards. It is essential for labour administration systems to establish appropriate and timely processes for imposing and enforcing fines, as well as timely proceedings consistent with the principles of due process.

22. The International Labour Office should use all appropriate means and apply appropriate measures including the following initiatives in order to strengthen labour administration and labour inspection:

- (1) Promote the ratification, implementation and effective application of the relevant international labour standards, in particular Conventions Nos. 81 (and its Protocol of 1995), 88, 129, and 150.
- (2) Strengthen the consultation with and the capacity of workers and employers and their organizations in the design of labour administration and inspection policies and tools with a view to implementing the Decent Work Agenda.

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- (3) Encourage international cooperation and exchanges, including South–South cooperation, and develop a database, accessible through the ILO website, on best practices in labour administration and inspection.
  - (4) Promote, in cooperation with national governments, the exchange of best practices on transparent recruitment/selection processes, decent working conditions, security and protection, appropriate career development and training for labour administration officials and labour inspectors.
  - (5) Encourage adequate and effective use of human and financial resource allocation for labour administration and inspection services.
  - (6) Design a methodology for the collection and analysis of basic national statistical data, including gender-disaggregated data, to allow for international comparisons and benchmarking on inspection services and activities, available to ILO constituents.
  - (7) Carry out research and provide advisory services, linked to the wider knowledge management strategy of the ILO, in those selected areas of interest to labour administration and inspection and social partners as identified in the report of the Committee on Labour Administration of the 100<sup>th</sup> Session of the International Labour Conference, including:
    - (a) research on the use of government procurement in advancing compliance with labour standards;
    - (b) research around the challenges for effective labour inspection posed by increased outsourcing, subcontracting, disguised and triangular employment relationships and means or methods to extend and enforce legislation to all workers in an employment relationship;
    - (c) research and evaluation of training methodology as well as training content to ensure that it addresses labour administration and inspectorates’ needs and objectives; and
    - (d) research on the risks and practices of the interface between labour administration and migration regulatory frameworks.
  - (8) Request that the Governing Body consider an international tripartite meeting of experts, during the next biennium, on private compliance initiatives in the light of international labour standards
  - (9) Design strategies for reaching out in order to promote the application and enforcement of labour legislation for workers in the public sector and for vulnerable workers, especially in the informal and rural economies, domestic workers and workers in EPZs.
  - (10) Consider the conclusions arising from the 2009 general discussion “Gender equality at the heart of decent work”, and recall that labour administrations, including labour inspection systems, are instrumental in enforcing gender equality legislation and policy.
  - (11) Promote national tripartite dialogue to address problems around labour law enforcement and inspection related to the growth of new forms of employment, noting Recommendation No. 198 as an instrument to assist in dealing with disguised employment relationships.

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- (12) Develop a technical cooperation portfolio to support the Office in the delivery of technical assistance to member States with a view to strengthening national labour administration and inspection services and mainstreaming them in the Decent Work Country Programmes.
  - (13) Improve coordination and exchange of information in the areas of labour administration and inspection within and outside the Office and across the multilateral system, through regional networks supported by the ILO, for example.

**19. Resolution concerning the recurrent discussion on Fundamental Principles and Rights at Work, 2012<sup>31</sup>**

INTERNATIONAL LABOUR CONFERENCE  
HUNDRED-FIRST SESSION  
GENEVA, 2012

The General Conference of the International Labour Organization, meeting at its 101st Session, 2012,

Having undertaken a recurrent discussion on fundamental principles and rights at work in accordance with the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, to consider how the Organization may respond more effectively to the realities and needs of its Members through coordinated use of all its means of action,

1. Adopts the following conclusions, which contain a framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work;

2. Invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them; and

3. Requests the Director-General to:

(a) prepare a plan of action incorporating the priorities in the framework for action, for consideration of the Governing Body at its 316th Session in November 2012;

(b) communicate the conclusions to relevant international and regional organizations for their attention;

(c) take into account the conclusions when preparing future programme and budget proposals and facilitating extra-budgetary activities; and

(d) keep the Governing Body informed of implementation.

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<sup>31</sup> Adopted on 13 June 2012.

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### III. FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK ARE ENFORCED AT THE NATIONAL LEVEL

14. The existence of effective institutions and mechanisms of enforcement is an essential precondition for the full implementation of all four categories of fundamental principles and rights at work. However, in many member States, this remains a challenge.

15. Governments should, in consultation with employers' and workers' organizations, consider the following:

(a) ensuring the existence and effective functioning of institutions for enforcement and compliance, including labour inspection and expeditious, fair and unbiased mechanisms to resolve disputes with respect to the implementation of fundamental principles and rights at work;

(b) developing and strengthening prevention measures, including awareness-raising campaigns, as part of comprehensive strategies to implement the fundamental principles and rights at work;

(c) with respect to forced labour and child labour, developing a complementary and appropriate approach between criminal justice and labour institutions and strengthening victim protection including through effective monitoring of the incidence of child and forced labour;

(d) undertaking special efforts to tackle all discrimination in respect of employment and occupation and promoting the equality of opportunity and treatment between women and men to reduce the pay differential between them and to realize the principle of equal remuneration for work of equal value as part of the overall promotion of gender equality; and

(e) means to respect, promote and realize freedom of association and the effective recognition of the right to collective bargaining.

[...]

17. Bearing in mind the 2011 International Labour Conference conclusions on labour administration and labour inspection, the ILO should:

(a) provide assistance to strengthen the capacity of the different national courts and institutions involved in the enforcement of national laws and other measures related to fundamental principles and rights at work, including an independent judiciary;

(b) share best practices on implementation strategies as an integral part of ILO technical cooperation activities on fundamental principles and rights at work; and

(c) provide technical support to legislative and institutional reforms related to the enforcement of fundamental principles and rights at work.

[...]

### STRENGTHENED TECHNICAL COOPERATION AND CAPACITY BUILDING

20. The ILO should:

(c) further expand training of law enforcement institutions, courts and the judiciary on fundamental principles and rights at work.

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[...]

## EFFECTIVE STANDARDS-RELATED ACTION

22. The ILO should:

(a) promote the ratification and application of the relevant ILO instruments, including the ILO governance Conventions, in order to contribute to the full implementation of the fundamental principles and rights at work;

[...]

28. With respect to private voluntary initiatives, with the understanding that these initiatives should not undermine the exercise by the state of its responsibilities, the ILO should:

[...]

(b) improve activities regarding public–private partnerships, in line with the ILO strategy on public–private partnerships, and assess the extent to which they are contributing to the realization of fundamental principles and rights at work.

[...]

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## Labour inspection

### 1. ***Resolution concerning the publication of a general report based upon the annual inspection reports, 1923***

INTERNATIONAL LABOUR CONFERENCE  
FIFTH SESSION  
GENEVA, 1923

The Conference invites the International Labour Office to publish each year on the basis of the annual inspection reports issued in the different countries a general report summarising the results obtained in the different States and to endeavour to secure the largest measure of uniformity possible in the presentation of the reports of the different countries and especially in the compilation of statistical tables, in order to allow of more exact comparison.

### 2. ***Resolution concerning the publication of a report on the comparability of inspectors' reports, 1923***

INTERNATIONAL LABOUR CONFERENCE  
FIFTH SESSION  
GENEVA, 1923

The Conference requests the Governing Body to consider the possibility of inscribing on the Agenda of a forthcoming Session of the Conference the institution of a special inspection system for the mercantile marine distinct from the industrial inspection system.

### 3. ***Resolution concerning the publication of a report on the comparability of inspectors' reports, 1923***

INTERNATIONAL LABOUR CONFERENCE  
FIFTH SESSION  
GENEVA, 2007

The Committee, considering that the International Labour Office has prepared a detailed documentary report on the comparability of inspectors' reports in the various countries, and that this report, not being printed, cannot be given sufficient publicity, expresses the wish that the Conference request the International Labour Office to proceed, so far as its financial resources will permit, to publish and distribute this document.

### 4. ***Resolution concerning the study of the principles and systems of protection, assistance and inspection in force in the various countries, 1926***

INTERNATIONAL LABOUR CONFERENCE  
EIGHTH SESSION  
GENEVA, 1926

The International Labour Conference requests the Governing Body to instruct the International Labour Office to study the principles and systems of protection, assistance and inspection in force in the various countries, and particularly the effect given to the simplification laid down in the Draft Convention.

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**5. Resolution concerning factory inspection, submitted by Mr. Müller, German Workers' Delegate: text of the Selection Committee, 1930**

INTERNATIONAL LABOUR CONFERENCE  
FOURTEENTH SESSION  
GENEVA, 1930

The Conference requests the Governing Body of the International Labour Office— in the spirit of the observations on the yearly reports of factory inspectors contained in the Director's Report to the present Session (pp. 182-183)— to organise an exchange of views between the Governments of the more important industrial countries among the States Members on the possibility of agreeing year by year on one or two special questions affecting the protection of the workers to which factory inspectors would be required to pay special attention in the ordinary course of their duties, and with which they would have to deal in greater detail in their yearly reports, so that the International Labour Office could co-ordinate and publish the information thus obtained.

The Governing Body is requested to report to the next Session of the Conference on the results of the action taken in accordance with the above suggestion, and to make any proposals which it thinks fit for giving practical effect to it.

**6. Resolution concerning labour inspection, 1936**

INTERNATIONAL LABOUR CONFERENCE  
TWENTIETH SESSION  
GENEVA, 1936

Whereas Article 41 of the Constitution of the International Labour Organisation lays down that each State should make provision for a system of inspection;

Whereas the institution of a system of inspection is one of the most essential methods of ensuring the efficacy of national and international social legislation;

Whereas the experience gained by inspection services in the various countries and the application over more than ten years of the Recommendation concerning the general principles for the organisation of systems of inspection adopted at the Fifth Session of the International Labour Conference provide a series of points which could be embodied in the text of a Convention guaranteeing strict and effective application;

Whereas the hope that the Conference would adopt a Convention on labour inspection has frequently been expressed at the Conference as well as by the meeting of the representatives of labour inspection services held at The Hague in October 1935 and whereas, in the same connection, a resolution was adopted by the Labour Conference of American States at Santiago in January 1936;

The Conference requests the Governing Body of the International Labour Office to consider the desirability of placing the question of labour inspection on the Agenda of the 1938 Session of the Conference.

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**7. Resolution concerning the protection of children and young workers, 1945**

INTERNATIONAL LABOUR CONFERENCE  
TWENTY-SEVENTH SESSION  
PARIS, 1945<sup>32</sup>

[...]

V. PROTECTION OF YOUNG WORKERS

24. The Conference reaffirms its obligation to lay down international standards for the protection of young workers with the object of extending and improving the protection of such workers in all types of occupation.

*A. Hours of Work*

25. In order to restrict the working hours of children and young persons within limits compatible with the maintenance of their health and with their recreational and educational needs, there should be —

- (a) strict regulation of the daily and weekly hours of work, with due regard for the varying needs of young people at different ages; efforts to reduce, in so far as may be practicable, the working week of young persons and children not attending school, to not more than 40 hours;
- (b) suitable arrangements during working hours permitting young workers to attend the continuation courses of general or technical education provided for in paragraph 12 above

until they attain the age of eighteen years at least, an appropriate maximum being fixed by legislation for the aggregate hours of school and work and an appropriate minimum for the number of hours during which young workers should be released in every day, week, month or year to attend school, these hours being preferably paid as working time.

*B. Night Work*

26. In order to protect all young workers under eighteen from the adverse effects of night work, which include undue fatigue and interference with the time normally free for recreational and cultural activities, measures should be taken—

- (a) to prohibit night work in industrial employment, at least to the extent to which such work is prohibited by the provisions of the Night Work (Young Persons) Convention, 1919, which requires a rest period of at least eleven consecutive hours including the interval between ten o'clock in the evening and five o'clock in the morning for young workers under eighteen years of age; with additional limitations for children and young persons below the age of sixteen years to cover a consecutive rest period of at least twelve hours; and to undertake a thorough examination of the cases in which night work is authorised for young persons over sixteen for continuous processes in prescribed industries in order to limit such exceptions to the indispensable minimum and to eliminate them so far as possible;

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<sup>32</sup> Adopted on 4 November 1945.



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- (b) to prohibit night work in agricultural undertakings by requiring rest periods not shorter than those provided for in the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921; and
  - (c) to prohibit night work in non-industrial occupations in a manner which is adapted to the conditions and takes into account the special risks involved in non-industrial night work for children and young persons of different age groups.

### *C. Rest Periods and Holidays*

27. In order that all young workers may enjoy daily breaks, weekly rest periods and annual holidays of sufficient duration to restore the loss of physical and mental energy resulting from continued employment, young persons under eighteen years of age, irrespective of occupation, should be assured:

- (a) Regular breaks during working hours and a rest period of a fixed minimum length allowing sufficient time for a meal in the middle of the working period;
- (b) A weekly rest period in every week without exception which should whenever possible be of 36 hours and should in all cases include 24 consecutive hours; the rest period should normally include Sunday or the day established by the traditions or customs of the country or district, and the substitution of another day for the weekly rest should be limited to cases in which such substitution is authorised by the competent authority as being in the public interest and should be authorised only on condition that a longer compensatory rest period is granted;
- (c) Annual holidays with pay, of a minimum duration of —
  - i) twelve working days per year taken in a single period for all young workers and apprentices under eighteen years of age in accordance with the principle already established for young workers and apprentices under sixteen years of age in industry and commerce by Article 2 (2) of the Holidays with Pay Convention, 1936, except that the one year period of service therein referred to need not be continuous; and
  - ii) eighteen working days per year for young workers engaged in particularly unhealthy or exacting occupations.

### *D. Industrial Safety and Hygiene*

28. Without prejudice to the fixing of a higher age of admission for certain occupations especially hazardous to life and health, as provided for in paragraph 19 (8) above, special conditions of employment should be prescribed for children and young persons engaged in occupations which involve special hazards to the health and safety of the young worker; to this end measures should be taken:

- (a) To arrange for the inclusion in the curricula of elementary schools and continuation courses of lessons in accident prevention and first aid and to give systematic instruction in accident prevention in vocational schools of all grades as recommended in paragraph 13 of the Prevention of Industrial Accidents Recommendation, 1929, and in the Vocational Education (Building) Recommendation, 1937;
- (b) To make employers responsible for providing for young workers in-plant training in safety methods and supervision, by the following means—

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- i) information on the general arrangements in the undertaking for preventing accidents and promoting safety;
  - ii) explanation of the possible dangers of the work, or the machinery or plant connected with the work, and precise training in the use of machines and tools so as to ensure that the young worker knows how to work safely before he is permitted to start on the job;
  - iii) experienced supervision to inculcate safe working habits and ensure that the young worker uses guards and protective equipment correctly, avoids work postures likely to cause physical deformation, and observes all safety rules and practices; and
  - iv) enforcement of particularly rigorous measures of hygiene in work places where there is a danger of industrial poisoning or disease;
- (c) To fix shorter working hours or provide more frequent breaks for young persons engaged in exacting occupations;
  - (d) To require a renewal of medical examinations at shorter intervals in the case of young persons engaged in occupations which are unhealthy or exacting.

#### *E. Moving of Loads*

29. In order to protect young workers from exertion beyond their physical strength, the lifting, carrying, drawing or pushing of loads which are unreasonably heavy in view of the age and sex of the child or young person should be prevented by —

- (a) prescribing the maximum weight of loads which a young worker may move or carry by his own efforts, having regard to the age and sex of the worker and to the conditions in which the work is done, as for example, the characteristics of the load, temperature and ventilation of workplace, the distance covered, the gradients climbed, the heights at which the load is picked up and deposited, the technical method of transport, the frequency and length of the exertion and the physical development of the worker in relation to the weight of the load;
- (b) prohibiting the employment of children and young persons in work which consists essentially in carrying heavy loads; and
- (c) promoting the use of mechanical devices to reduce the physical effort required in moving loads and of safe methods of lifting loads.

#### *F. Wages*

30. Provisions with reference to wages paid to young workers should have the objective of assuring that they are paid wages commensurate with the work performed, observing wherever possible the principle of equal pay for comparable jobs. Provision should be made for inexperienced young workers through learners' rates when substantial periods of learning are required and through apprenticeship programmes. Wherever the arrangements normally made by means of collective bargaining are not effective, special efforts should be made to assure —

- (a) the payment to apprentices of fair and reasonable rates of compensation for productive labour performed as a part of training and the inclusion in apprenticeship contracts of provisions regarding the method of determining remuneration and the scale of increase of remuneration during the apprenticeship,

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in accordance with the provisions of paragraph 4 (1) of the Apprenticeship Recommendation, 1939;

- (b) the application of the following principles where the wage rates for young workers not employed under apprenticeship are customarily fixed separately from those of adults —
  - i) responsibility for fixing the rates should be entrusted to joint wages boards or to other suitable bodies on which the interests of the employer and worker are represented; and
  - ii) the rates should be fixed in the light of educational requirements, experience, job content and the average output of young workers, with provision for successive increases in minimum wage rates commensurate with the average time needed to gain proficiency, and without prejudice to the principle of equal pay for equal work. Where remuneration is based on output, special safeguards against overstrain should be introduced.

#### *G. Board and Lodging*

31. In order to assure proper living conditions for young workers who are away from home for the purpose of vocational training or employment, provision should be made for:

- (a) Fixing proper standards of sanitation, comfort, moral decency and adequate nutrition to be complied with when an employer furnishes board and lodging to a young worker or apprentice and making an appropriate authority responsible for ensuring that these standards are respected;
- (b) Satisfactory living quarters and meals for young workers living away from home whose employers do not supply board and lodging, if necessary by encouraging the establishment of hostels or by establishing them.

#### *H. Methods of Supervision*

32. In order that the regulation of the employment of children and young persons may be fully effective, appropriate methods of supervision, including the following, should be established:

- (a) Labour inspectors should be specially trained so that they will pay particular attention to the working conditions of children and young persons and will supplement legal measures with practical advice regarding the application of the measures to particular cases; special training should also be provided for vocational guidance counsellors and placement personnel;
- (b) Supervisory authorities should be assigned, within limits carefully defined by law, authority to suspend employment or to modify conditions of employment which might be injurious to young workers;
- (c) There should be close collaboration between the employment and labour inspection services, the public medical and social services and the appropriate departments of undertakings in supervising the employment conditions of young workers, in a combined effort to obtain for children and young persons suitable job assignments;
- (d) Joint supervision by the employment and social service authorities of the working and living conditions of young persons employed in private households or institutions;

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- (e) Arrangements should be made to obtain the full co-operation of local and educational authorities and of private and public social agencies with labour inspectors in order to supervise employment in street trading and similar occupations; and
- (f) Employers should be required to facilitate the task of inspectors by placing at their disposal the special register provided for in the Minimum Age (Industry) Conventions, 1919 and 1937, and in the Minimum Age (Non-Industrial Employment) (Revised) Convention, 1937, and all other useful documents which give precise information on children and young persons in their employment and on the conditions under which they are employed.

*I. Right of Association*

33. Young workers should have the same freedom as adults to join the trade union of their own choosing as from their entry to employment.

[...]

**8. Resolution concerning the Scope of Labour Inspection, 1947<sup>33</sup>**

INTERNATIONAL LABOUR CONFERENCE  
THIRTIETH SESSION  
GENEVA, 1947

Whereas the Labour Inspection Convention, 1947, applies only to undertakings in respect of which legal provisions for the protection of workers are enforceable by labour inspection;

Whereas this scope of application may leave Governments free to exclude large numbers of workers from the application of the Convention; and

Whereas all workers in industrial and commercial undertakings are in need of the protection afforded by the appointment of an inspectorate to enforce proper conditions of work;

The Thirtieth Session of the International Labour Conference— Urges the Governments to apply to all workers employed in industrial and commercial undertakings the legal provisions for the protection of workers which are enforceable by labour inspectors.

**9. Resolution concerning the Regulation of the Employment of Young Persons in Underground Work in Coal Mines, 1952<sup>34</sup>**

INTERNATIONAL LABOUR CONFERENCE  
THIRTY-FIFTH SESSION  
GENEVA, 1952

[...]

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<sup>33</sup> Adopted on 11 July 1947.

<sup>34</sup> Adopted on 21 June 1952.

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## VII. INSPECTION SERVICES

26. Primary consideration should be given to extending appropriate supervisory services to areas where young persons are employed underground.

27. Methods of supervision of the employment of young workers underground in coal mines should include the following:

- (a) supervisory authorities should be empowered, within limits carefully defined by law, to take the necessary steps with a view to remedying as quickly as possible conditions they consider to constitute a threat to the health or safety of the young workers employed underground;
- (b) supervision of the employment conditions of young workers should be effected by means of close collaboration between various agencies, such as the employment and labour inspection services, the public medical and social services, and the appropriate departments of undertakings in accordance with their respective responsibilities.

28. Employers should be required to facilitate the tasks of inspectors by placing at their disposal the special register provided for in the relevant Conventions dealing with minimum age, night work and medical examination of young persons, or general registers including the data on young persons required by these texts, and all such other documents as give precise information in regard to young persons employed underground.

**10. *Resolution concerning the Placing on the Agenda of the Next Ordinary Session of the Conference of an Item Entitled "Labour Inspection in Agriculture", 1968***<sup>35</sup>

INTERNATIONAL LABOUR CONFERENCE  
FIFTY-SECOND SESSION  
GENEVA, 1968

The General Conference of the International Labour Organisation,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of governments, proposals for a Convention and a Recommendation concerning labour inspection in agriculture;

Decides that an item entitled "Labour inspection in agriculture" shall be included in the agenda of its next ordinary session for a second discussion, with a view to the adoption of a Convention and a Recommendation.

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<sup>35</sup> Adopted on 24 June 1968 by 284 votes in favour, none against, with 4 abstentions.

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**11. Resolution concerning the inspection of seafarers' working and living conditions, 1996<sup>36</sup>**

INTERNATIONAL LABOUR CONFERENCE  
EIGHTY-FOURTH (MARITIME) SESSION  
GENEVA, 1996

The General Conference of the International Labour Organization,

Having discussed the first item on its agenda, entitled "Revision of the Labour Inspection (Seamen) Recommendation, 1926",

Considering the importance of the implementation of the instruments relating to the inspection of seafarers' working and living conditions,

Recalling the Guidelines for Procedure in respect of inspection of labour conditions on board ship issued by the International Labour Office in 1990,

Invites the Governing Body of the International Labour Office to request the Director-General to make proposals for a further Meeting of Experts to review the guidelines in the light especially of the standards adopted by the present session of the Conference and for the promotion of the widest possible use of such guidelines.

**12. Resolution concerning the promotion of the Maritime Labour Convention, 2006<sup>37</sup>**

INTERNATIONAL LABOUR CONFERENCE  
NINETY-FOURTH SESSION  
GENEVA, 2006

The General Conference of the International Labour Organization,

Having adopted the Maritime Labour Convention, 2006,

Noting that the success of the Convention will depend upon its being widely ratified and the effective implementation of its requirements,

Mindful that the core mandate of the Organization is to promote decent working and living conditions,

Confirming the resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection, adopted by the Preparatory Technical Maritime Conference of the International Labour Organization (Geneva, 13-24 September 2004);

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority in the allocation of resources to conducting the outstanding tripartite work required for effective implementation of the Convention,

Further invites the Governing Body to request the Director-General to give due priority in the allocation of the resources of the Organization's technical cooperation

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<sup>36</sup> Adopted on 21 October 1996.

<sup>37</sup> Adopted on 22 February 2006.

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programme to promoting the ratification of the Convention and to assisting countries which request assistance in its implementation in such areas as:

- technical assistance for Members, including on capacity building for national administrations and the drafting of national legislation to meet the requirements of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention; and
- national and regional seminars, as well as workshops on the Convention.

### **13. Resolution and Conclusions concerning labour administration and labour inspection, 2011<sup>38</sup>**

INTERNATIONAL LABOUR CONFERENCE  
HUNDRETH SESSION  
GENEVA, 2011

The General Conference of the International Labour Organization, meeting at its 100<sup>th</sup> Session, 2011,

Having undertaken a general discussion on the basis of Report V, *Labour administration and labour inspection*,

Recognizing that labour administration and labour inspection are institutions for good governance at the service of ILO constituents and are essential to achieve the decent work objectives; to promote compliance with and enforcement of labour legislation; to protect workers' rights, including fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation; and to develop mechanisms for solving complex issues in the world of work,

Recognizing that labour ministries have a pivotal role to play in shaping social and economic policies as well as applying such policies in both the workplace and at the national level,

Affirming the urgent need to build, foster and maintain sound labour administration and inspection systems notwithstanding the financial and economic crisis, and to expand their coverage to all workers in an increasingly diverse global workforce, including workers in extended global supply chains, export processing zones, the informal economy and workers in a disguised employment relationship,

Recognizing that today's labour administrations' strategic, policy-making and coordinating roles are hampered in many countries by a lack of political support or a lack of financial, human or material resources,

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<sup>38</sup> Adopted on 16 June 2011.

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Recognizing that sound labour administration and inspection systems are vital for the enforcement of labour standards, the promotion of social dialogue, social security, employment services, sustainable enterprises, and the development of employment policies,

Bearing in mind that labour administration and labour inspection have been ILO priorities since its foundation, and that the importance of strong and effective labour administration and inspection is recognized in the ILO Constitution, the Declaration of Philadelphia, the ILO Declaration on Social Justice for a Fair Globalization and the Global Jobs Pact, as well as several ILO Conventions, Recommendations and other instruments,

1. Adopts the following conclusions;
2. Invites the Director-General to bring these conclusions to the attention of the member States and employers' and workers' organizations; and
3. Invites the Governing Body of the International Labour Office to give due consideration to them in planning future action, especially within the technical cooperation programme and the delivery of Decent Work Country Programmes, and to request the Director-General to take them into account both when allocating other resources as may be available during the 2010–11 biennium and when implementing the programme and budget for the coming biennia.

#### CONCLUSIONS ON LABOUR ADMINISTRATION AND LABOUR INSPECTION

1. The principles of labour administration and labour inspection are grounded in international labour standards. These standards, notably the Labour Inspection Convention, 1947 (No. 81) and its Protocol of 1995, the Employment Service Convention, 1948 (No. 88), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), (Conventions Nos. 81, 122 and 129 are considered “governance standards”), the Labour Administration Convention, 1978 (No. 150), the Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), are relevant to all countries regardless of their level of economic development. The ratification and implementation of these Conventions with respect for and the advancement of fundamental principles and rights at work, are essential to strengthen national systems of labour administration and labour inspection.

2. Effective labour administration systems, public employment services and labour inspection, are vital for good governance of labour matters and for economic and social progress. These systems can make decent work a reality in the workplace by enforcing labour standards and improving working and employment conditions, thus increasing accountability, occupational safety and health, competitiveness and productivity with social equity. At the same time, labour administration systems can help stimulate economic growth by developing and implementing economic and social policies designed to produce higher employment rates, social cohesion and decent work.

3. Experience from the recent financial and economic crisis has shown that labour administration has an essential role among government institutions, as good labour policies and efficient institutions can help to address difficult economic situations, by protecting workers and enterprises against the worst impact of an economic crisis and mitigating its economic and social consequences while facilitating economic recovery.

4. Ministries of labour and employment and their agencies are the core of labour administration systems throughout the world. They have a specific role to enforce labour laws and to provide information to workers and employers about their rights and



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responsibilities in order to protect workers, to enable and promote sound industrial relations including mediation and dispute resolution, to promote decent employment and better workplace practices, to ensure compliance with labour standards, and to improve the functioning of the labour market. Labour administration systems can also be instrumental in enforcing gender equality legislation and policy.

5. Governments should build effective labour administration and labour inspection systems through genuine and timely tripartite social dialogue. Effective tripartism requires respect for freedom of association. The presence of workers' and employers' organizations facilitates labour inspection.

6. The current weaknesses of labour administrations in many countries prevent ministries of labour from delivering adequate services to their citizens or meaningfully influencing policy-making processes. It is important to strengthen and increase the leadership role of ministries of labour in these countries in the coordination and development of employment and labour market policies and national development plans. Consultation with workers' and employers' organizations is essential.

7. The lack of resources constitutes a major obstacle to effective labour administration in many countries. In countries where available resources are at critically low levels, a substantial and sustained increase of resources is necessary. In these countries, as in all countries, the focus should be on developing and retaining skilled human resources, since no labour administration can work without specifically dedicated staff who are qualified and adequately trained and equipped.

8. Public employment services are fully part of a labour administration system. Strong coordination and regulation of these services are required at the national level with a view to promoting balanced and equitable policies in order to avoid abuses, including with respect to vulnerable workers, such as domestic and migrant workers and people with disabilities.

9. Labour administration and inspection systems today operate in a rapidly changing environment characterized by dramatic economic, institutional, demographic and political transformations, including changing patterns of production, work organization, employment structures and relationships, labour migration and cross-border postings, outsourcing and extended global supply chains, and the expansion of the informal economy.

10. To cope with challenges in a rapidly changing world of work, labour administrations must continuously adapt and modernize. They should explore efficient and effective methods of governance and management and build tripartite partnerships as well as partnerships with other institutions and actors. However, any modernization effort must respect values such as the rule of law, tripartism, social dialogue at all levels, public interest, democracy, equity, good governance and transparency.

11. In their efforts to adapt and modernize, labour administration and labour inspection systems should take advantage of advances in information and communication technologies to improve their internal working methods and expand the range and accessibility of services for constituents while maintaining thorough inspections. A variety of online, mobile and networking technologies have the potential to increase efficiency and reduce costs, improve transparency, facilitate the collection and analysis of labour statistics, and assist with the dissemination of accessible information about labour laws and policies. While the adoption of new technologies is uneven between countries, developing nations can still greatly benefit from modest and cost-effective systems adapted to their own level of technological development.

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12. As a main labour administration component, labour inspection is a public function and is at the core of effective labour law with wide powers and functions, including enforcement and sanctions that should be sufficiently dissuasive to deter violations of labour legislation while also providing corrective, developmental and technical advice, guidance, prevention tools and promoting workplace best practices. These functions should be regulated and balanced as part of a comprehensive compliance strategy in order to ensure decent working conditions and a safe working environment.

13. Labour inspection systems, particularly those in developing countries, face numerous challenges that are common to labour administrations as a whole, including the need for increased financial resources, more duly qualified inspectors, better equipment and better training, and improved recruitment procedures.

14. In order to ensure the integrity of labour inspection, conditions of service for labour inspectors should reflect gender equality and facilitate employment stability and personal security in the exercise of their functions, underpinned by an appropriate regulatory framework.

15. Adequate resources must be made available by member States for the design and implementation of budgeted national training programmes with a view to upgrading technical skills, reinforcing ethical behaviour and ensuring independence of labour inspectors (as required under Article 6 of ILO Convention No. 81).

16. Labour inspection must be a public prerogative and be in accordance with international labour standards. However, the past decades have seen a growth in private auditing initiatives such as the establishment of social reporting and private monitoring systems. There is a risk that some types of private initiatives could undermine public labour inspection. The issues of private compliance initiatives, self-regulation and potential public-private partnerships are deserving of closer examination by tripartite experts to be drawn together by the ILO. The Committee therefore recommends that the Governing Body consider such a tripartite meeting of experts.

17. Promoting and enforcing decent working conditions, safety and health standards and respect for fundamental principles and rights at work are at the core of labour inspection activities. This includes, for example, action to combat undeclared work, child and forced labour. The provisions of labour law should apply equally to all workers and all workplaces. General compliance and preventive strategies are essential for ensuring fairness in the workplace and consequently sustainable enterprises and economic growth. These strategies should cover all workers, including those in the public sector, the informal economy, rural economy and agriculture and export processing zones (EPZs). It is unacceptable that some EPZs are exempted from basic national labour laws. Labour inspectors face the challenge of ensuring labour law compliance in workplaces that are difficult to detect (e.g. in the agricultural and construction sectors), or where the employment relationship is particular (home-based work, domestic work), or is difficult to identify (new forms of employment, outsourcing and complex supply chains). In this regard, the Employment Relationship Recommendation, 2006 (No. 198), should be noted.

18. It is important for governments to aim for an overall integrated strategy for inspection activities and to ensure the coordinating and supervisory role of the central authority recognized by Convention No. 81. Governments should also promote social dialogue in safety and health at sectoral and company level, particularly aimed at prevention. National tripartite dialogue could also focus on identifying specific prevention campaigns in sectors at risk or where widespread violations of labour law occur. Safety and health initiatives should where possible be based on the best available information and methods of work that are focused and effective.

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19. For an overall effective system of labour inspection, the planning, programming and reporting cycle is also fundamental for achieving a coherent and objective basis for inspection action that responds to prevailing working conditions and anticipates geographic areas or sectors where targeted interventions may be required. However, many labour administrations are unable to provide comparable statistics. Collection by the ILO of basic national data on the number of inspectors and inspection activities and other related statistics could facilitate benchmarking and exchange of best practices.

20. In promoting a prevention culture and securing compliance, labour inspectors use a wide variety of interventions and tools including prevention initiatives as well as enforcement. Sufficiently dissuasive sanctions are an indispensable component of any labour inspection system. An appropriate mix of preventive measures such as risk evaluation, promoting a culture of leadership and best practice, implementing occupational safety and health measures, information guidance and awareness campaigns combined with sanctions should be adopted.

21. Prevention measures and enforcement sanctions are complementary to the overall purpose of promoting labour standards. It is essential for labour administration systems to establish appropriate and timely processes for imposing and enforcing fines, as well as timely proceedings consistent with the principles of due process.

22. The International Labour Office should use all appropriate means and apply appropriate measures including the following initiatives in order to strengthen labour administration and labour inspection:

(1) Promote the ratification, implementation and effective application of the relevant international labour standards, in particular Conventions Nos. 81 (and its Protocol of 1995), 88, 129, and 150.

(2) Strengthen the consultation with and the capacity of workers and employers and their organizations in the design of labour administration and inspection policies and tools with a view to implementing the Decent Work Agenda.

(3) Encourage international cooperation and exchanges, including South-South cooperation, and develop a database, accessible through the ILO website, on best practices in labour administration and inspection.

(4) Promote, in cooperation with national governments, the exchange of best practices on transparent recruitment/selection processes, decent working conditions, security and protection, appropriate career development and training for labour administration officials and labour inspectors.

(5) Encourage adequate and effective use of human and financial resource allocation for labour administration and inspection services.

(6) Design a methodology for the collection and analysis of basic national statistical data, including gender-disaggregated data, to allow for international comparisons and benchmarking on inspection services and activities, available to ILO constituents.

(7) Carry out research and provide advisory services, linked to the wider knowledge management strategy of the ILO, in those selected areas of interest to labour administration and inspection and social partners as identified in the report of the Committee on Labour Administration of the 100<sup>th</sup> Session of the International Labour Conference, including:

- a) research on the use of government procurement in advancing compliance with labour standards;

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- b) research around the challenges for effective labour inspection posed by increased outsourcing, subcontracting, disguised and triangular employment relationships and means or methods to extend and enforce legislation to all workers in an employment relationship;
  - c) research and evaluation of training methodology as well as training content to ensure that it addresses labour administration and inspectorates' needs and objectives; and
  - d) research on the risks and practices of the interface between labour administration and migration regulatory frameworks.

(8) Request that the Governing Body consider an international tripartite meeting of experts, during the next biennium, on private compliance initiatives in the light of international labour standards.

(9) Design strategies for reaching out in order to promote the application and enforcement of labour legislation for workers in the public sector and for vulnerable workers, especially in the informal and rural economies, domestic workers and workers in EPZs.

(10) Consider the conclusions arising from the 2009 general discussion "Gender equality at the heart of decent work", and recall that labour administrations, including labour inspection systems, are instrumental in enforcing gender equality legislation and policy.

(11) Promote national tripartite dialogue to address problems around labour law enforcement and inspection related to the growth of new forms of employment, noting Recommendation No. 198 as an instrument to assist in dealing with disguised employment relationships.

(12) Develop a technical cooperation portfolio to support the Office in the delivery of technical assistance to member States with a view to strengthening national labour administration and inspection services and mainstreaming them in the Decent Work Country Programmes.

(13) Improve coordination and exchange of information in the areas of labour administration and inspection within and outside the Office and across the multilateral system, through regional networks supported by the ILO, for example.

#### **14. *Resolution concerning the recurrent discussion on Fundamental Principles and Rights at Work, 2012***<sup>39</sup>

INTERNATIONAL LABOUR CONFERENCE  
HUNDRED-FIRST SESSION  
GENEVA, 2012

The General Conference of the International Labour Organization, meeting at its 101st Session, 2012,

Having undertaken a recurrent discussion on fundamental principles and rights at work in accordance with the Follow-up to the ILO Declaration on Fundamental Principles

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<sup>39</sup> Adopted on 13 June 2012.

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and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, to consider how the Organization may respond more effectively to the realities and needs of its Members through coordinated use of all its means of action,

1. Adopts the following conclusions, which contain a framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work;

2. Invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them; and

3. Requests the Director-General to:

(a) prepare a plan of action incorporating the priorities in the framework for action, for consideration of the Governing Body at its 316th Session in November 2012;

(b) communicate the conclusions to relevant international and regional organizations for their attention;

(c) take into account the conclusions when preparing future programme and budget proposals and facilitating extra-budgetary activities; and

(d) keep the Governing Body informed of implementation.

[...]

### III. FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK ARE ENFORCED AT THE NATIONAL LEVEL

14. The existence of effective institutions and mechanisms of enforcement is an essential precondition for the full implementation of all four categories of fundamental principles and rights at work. However, in many member States, this remains a challenge.

15. Governments should, in consultation with employers' and workers' organizations, consider the following:

(a) ensuring the existence and effective functioning of institutions for enforcement and compliance, including labour inspection and expeditious, fair and unbiased mechanisms to resolve disputes with respect to the implementation of fundamental principles and rights at work;

(b) developing and strengthening prevention measures, including awareness-raising campaigns, as part of comprehensive strategies to implement the fundamental principles and rights at work;

(c) with respect to forced labour and child labour, developing a complementary and appropriate approach between criminal justice and labour institutions and strengthening victim protection including through effective monitoring of the incidence of child and forced labour;

(d) undertaking special efforts to tackle all discrimination in respect of employment and occupation and promoting the equality of opportunity and treatment between women and men to reduce the pay differential between them and to realize the principle of equal remuneration for work of equal value as part of the overall promotion of gender equality; and

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(e) means to respect, promote and realize freedom of association and the effective recognition of the right to collective bargaining.

[...]

17. Bearing in mind the 2011 International Labour Conference conclusions on labour administration and labour inspection, the ILO should:

(a) provide assistance to strengthen the capacity of the different national courts and institutions involved in the enforcement of national laws and other measures related to fundamental principles and rights at work, including an independent judiciary;

(b) share best practices on implementation strategies as an integral part of ILO technical cooperation activities on fundamental principles and rights at work; and

(c) provide technical support to legislative and institutional reforms related to the enforcement of fundamental principles and rights at work.

[...]

#### STRENGTHENED TECHNICAL COOPERATION AND CAPACITY BUILDING

20. The ILO should:

(c) further expand training of law enforcement institutions, courts and the judiciary on fundamental principles and rights at work.

[...]

#### EFFECTIVE STANDARDS-RELATED ACTION

22. The ILO should:

(a) promote the ratification and application of the relevant ILO instruments, including the ILO governance Conventions, in order to contribute to the full implementation of the fundamental principles and rights at work;

[...]

28. With respect to private voluntary initiatives, with the understanding that these initiatives should not undermine the exercise by the state of its responsibilities, the ILO should:

[...]

(b) improve activities regarding public–private partnerships, in line with the ILO strategy on public–private partnerships, and assess the extent to which they are contributing to the realization of fundamental principles and rights at work.

[...]



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## C. Resolutions, Conclusions and other instruments adopted by the ILO Regional Conferences and Meetings

### African Regional Conferences and Meetings

#### Labour Administration

1. ***Resolution concerning Action by the International Labour Organisation to Advance Labour Administration in African Countries, 3rd African Regional Conference, Accra, 1969<sup>40</sup>***

The Third African Regional Conference of the International Labour Organisation, Meeting in Accra from 8 to 18 December 1969,

Convinced of the vital nature of labour administration services in the African countries, including effective services in the fields of labour inspection, industrial relations and employment, and competent research and administrative services,

Conscious of the greatest importance of the policy-making role of strong and dynamic ministries of labour participating fully in the process of development planning at the highest level,

Recalling that ministries of labour have a vital role to play in establishing the structures necessary to make employment programmes effective,

Bearing in mind the conclusions on labour administration, including labour inspection, in Africa, adopted by the African Advisory Committee of the International Labour Organisation at its Third Session in Dakar in October 1967,

Aware of the importance of the role of the International Labour Organisation in pursuing these aims and in helping the African countries in their common efforts to attain high standards of labour administration;

Invites the Governing Body of the International Labour Office to give special attention to programmes of action in the field of labour administration;

#### I

Recommends accordingly that the International Labour Organisation should undertake specific action along the following lines:

1. As it is necessary to consider international technical co-operation in public administration, and especially in labour administration, as a long-term activity, planned and executed within a regional programme capable of progressively developing towards increasing mutual aid between the African countries, the International Labour Organisation should help, advise and assist these countries towards this end. The Organisation should also, on appropriate occasions, bring

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<sup>40</sup> Adopted 17 December 1969.



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this point to the attention of multilateral and bilateral sources of financing technical co-operation programmes.

2. As it is evident that the objective set out in the preceding paragraph and spelled out in those which follow could not be achieved without the financial and administrative support of the governments concerned, the particular attention of recipient governments should be drawn to the fact that their active participation is a necessary condition of the success of these technical co-operation programmes.
3. The International Labour Organisation should seek ways and means to increase the aid granted by the ILO to States requesting it in order to strengthen their labour administration services in general, and their ministries of labour in particular, within the framework of the above-mentioned co-operation :
  - (a) by helping to define the role of ministries of labour and to make them key institutions responsible for manpower and labour policy in the process of national development;
  - (b) by helping to solve the institutional problems of the labour administration services and those raised by their organisation and operation, either by sending experts to governments or by using regional advisers;
  - (c) by arranging, wherever possible, for all assistance to a ministry of labour in various fields to be co-ordinated, in particular by planning integrated projects assured of adequate international financing, negotiated with the government concerned, lasting a number of years and relating to a group of technical fields, such as labour administration, employment, labour relations, labour inspection, wages, safety and health and statistics;
  - (d) by assisting the governments concerned in establishing national systems for the training and advanced training of labour administration officials;
  - (e) by making available study fellowships to carefully selected national officials;
  - (f) by promoting, with the backing of the States concerned and the various international financing bodies, the creation of permanent regional or sub-regional labour administration centres responsible for training, research and possibly mutual aid and supporting their operation.
4. (1) For this purpose the International Labour Organisation should continue, expand and establish on a permanent basis the English- and French-language programmes which it has already undertaken.
  - (2) In this connection—noting that the activities of the French-speaking African Regional Labour Administration Centre at Yaounde may soon receive increased financing from the Nations Development Programme—the Conference regards this as a very positive development and hopes that it will receive the active support and participation of the recipient governments. On this basis, the International Labour Organisation should continue and increase the activities of this Centre.
  - (3) The regional courses and seminars for English-speaking labour administrators—which the ILO has already organised under its regular programme of technical co-operation, in implementation of the recommendation on this point made by the African Advisory Committee at its Third Session—having established a sound technical basis for a more long term and expanded programme, it would be desirable to establish such a programme on a fuller scale, with the support of the governments concerned. The objectives of the programme should be to give initial

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and advanced training to ministry of labour officials, to render assistance from a regional centre to the governments concerned with a view to the strengthening of labour administration institutions, to undertake studies and research in the same field, and when appropriate to extend training to employers' and workers' representatives. On the basis of appropriate government support ways and means should be sought of obtaining increased international assistance, for example through the United Nations Development Programme.

The aim should be the establishment of an English-speaking African Labour Administration Centre.

(4) Workers' education programmes should also receive priority attention in the regional technical co-operation programmes of the International Labour Organisation.

5. The International Labour Organisation might usefully pursue its plans to arrange in the near future, in co-operation with the United Nations Development Programme and other international organisations concerned, a round table for African representatives of planning authorities or ministries of economic affairs and ministries of labour and, if appropriate, the occupational organisations. Other programmes, including meetings and technical cooperation, might follow this project with the aim of integrating ministries of labour in the process of development planning, preferably through statutory representation of such ministries on the bodies responsible for planning. Such programmes should be evolved in the context of the principles spelled out in paragraph 4 above. In addition, a special effort should be made to co-ordinate them with the Jobs and Skills Programme for Africa.
6. The programme of study and research already undertaken by the International Labour Organisation with a view to defining the role of labour administration in economic and social progress and revealing the institutional factors of interaction between wealth and welfare should be continued and broadened. A further objective should be to facilitate the solution of practical problems encountered by the administrative services concerned.
7. The International Labour Organisation should study the manner in which national labour administration services might assist in the application of social labour standards in small undertakings and in economically weak sectors.
8. The International Labour Organisation should initiate a programme of study of actual experiments made by developing countries, including the African countries, in extending the scope of labour administration services to cover workers other than wage earners. The possibility of arranging a round table on the problems of labour administration in rural areas, which would provide an opportunity for a dialogue between ministries of labour and other ministries concerned with agriculture or rural development, should be envisaged.
9. The information function of ministries of labour should be studied and publicised. Particular attention should be given in the programmes of the International Labour Organisation to experiments in this field.
10. At all stages of development of the World Employment Programme, and of its African component in particular, the International Labour Organisation should pay special attention to bringing about, through its labour administration programmes, the institutional and administrative improvements necessary to the success of national employment programmes, especially where ministries of labour are concerned.

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## II

The Conference urges all African States Members of the International Labour Organisation to co-operate fully in the implementation of the programme set out above.

### **2. Resolution concerning Labour Administration, Including Labour Inspection, in Africa, 3<sup>d</sup> African Regional Conference, Accra, 1969<sup>41</sup>**

The Third African Regional Conference of the International Labour Organisation,  
Meeting in Accra from 8 to 18 December 1969,

Conscious that ministries of labour have a vital responsibility for the promotion of social progress, which is the cornerstone of political stability and should be the purpose of economic development,

Aware that their ability to fulfil this responsibility depends upon the financial and material resources made available to them and upon their status and authority in relation to those of other government departments,

Concerned at the variety and gravity of the social and economic problems stemming from the difficulties encountered by ministries of labour in discharging their responsibility with regard to manpower, labour relations, the application of labour standards and the evolution of labour policies,

Bearing in mind the conclusions adopted by the African Advisory Committee of the International Labour Organisation at its Third Session in Dakar in October 1967;

Adopts the following resolution and recommends the Governing Body of the International

Labour Office to transmit it to the African States Members of the International Labour Organisation in order that they may take account of these considerations and apply the principles and measures set forth therein.

#### I. RESPONSIBILITIES OF LABOUR ADMINISTRATION

1. The development of social policy should constitute one of the major concerns of the policies of each African country, and should be fostered by effective, strong and dynamic ministries of labour participating fully in the process of development planning at the highest level.

2. Social policy should be given the same importance and priority as policy in the fields of finance, economic planning, justice, internal security and foreign affairs, and all appropriate institutional measures should be taken for this purpose.

3. The basic concept of labour administration should reflect the responsibilities falling to the State in respect of equality of opportunity, economic security and social justice for all citizens and should be aimed at increasing the contribution made by labour administration to the political stability, economic prosperity and social progress of the African countries.

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<sup>41</sup> Adopted 17 December 1969.

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4. The labour administration service should be the main body responsible for the formulation of social policy and for its effective implementation. It should not confine its functions to the enforcement of regulations, but should also make its own contribution to raising the national income. For this purpose it should have appropriate structures, methods and resources.

5. Social policy, together with the legislative and administrative action giving effect to it, should be prepared by means of specific studies and permanent research undertaken to deal with the problems which arise, by ascertaining their causes, evaluating their extent, establishing their order of priority and foreseeing their immediate and long-term repercussions.

6. The action of labour administration should be based on continuous study and research so that such action corresponds effectively to the social and economic realities of the countries concerned and to their needs.

7. Labour administration should assume a role comprising information, standard-setting and executive services.

8. In no case should it be forgotten that the adoption of a new legal standard, whether as a result of a governmental or parliamentary initiative, is accompanied by measures which go beyond the adoption procedure as such and is preceded by preparatory work for which the labour administration is explicitly or implicitly responsible. Where the prior intervention of tripartite advisory bodies is desirable, the labour administration should play an important part in their functioning. The adoption of legislative texts should be followed, where appropriate, by the adoption of regulations designed to lay down standards for applying the principles set forth in the law and should be supplemented by means of collective bargaining.

9. The labour administration should be enabled to fulfil effectively its traditional responsibilities with regard to labour inspection, industrial relations, employment and vocational training services, social security, wage fixing machinery and occupational safety and health.

For this purpose, appropriate measures for the organisation of services should be taken to ensure that these services have a structure corresponding to their respective functions and that their responsibilities are properly defined.

## II. STRUCTURE OF LABOUR ADMINISTRATION SERVICES

10. Appropriate models should be devised by the competent authority for the organisation of labour administration, taking into account the special needs of the country concerned.

11. Every measure should be taken to bring within the competence of ministries of labour all questions respecting labour and manpower as well as the related services.

12. It would be especially desirable for measures to be taken—

- (a) to grant to the labour administration chief responsibility for manpower and vocational training in collaboration with any of the other administrative departments concerned; and
- (b) to combine under one general labour inspectorate all services for the supervision of the application of laws and regulations relating to labour and to occupational safety and health.

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13. Measures should also be taken—

- (a) to ensure, through appropriate hierarchical structures, over-all co-ordination of the activities of ministries of labour at top level;
- (b) to establish research and planning units within labour ministries;
- (c) to establish clear responsibilities for over-all policy and for executive action respectively;
- (d) to organise separately, as soon as possible, labour inspection services, on the one hand, and industrial relations services, on the other;
- (e) to establish within labour ministries appropriate services responsible for employment, placement and vocational training questions, with clear identification of their respective functions; and
- (f) to adopt any further measures required by national circumstances.

14. Statutory representation of ministries of labour on planning bodies should be ensured.

15. Finally, account should be taken of—

- (a) the desirability of providing permanent institutional links with other administrative departments at the national and regional levels, especially regarding economic planning and human resources development; and
- (b) the desirability of co-operation at the local level with other administrative departments with a view to setting up administrative infrastructures in the rural areas and of coordination of their activities by appropriate methods, such as exchanges of information and mutual aid between local services.

### III. FUTURE PERSPECTIVES OF LABOUR ADMINISTRATION

16. The labour administration should be encouraged to extend the scope of its competence progressively to cover the whole of the national work force in such a way that this competence is determined not simply by the nature of the legal relationship between the worker and his employer.

17. Information for employers and workers, as well as for the public in general, should be intensified by recourse to modern techniques for dissemination of information best suited to the sectors for which the information is intended.

### IV. LABOUR INSPECTION

18. (1) The vital role of labour inspection as an essential area of labour administration should be recognised.

(2) Member States should take all measures to give full effect, through the practical modalities suited to national circumstances, to the provisions of the Labour Inspection Convention, 1947, and the Labour Inspection (Agriculture) Convention, 1969.

19. Labour inspectorates should be assured of all the necessary means, including transport, suitable offices and facilities, for the effective performance of their functions. They should have qualified, responsible, independent, impartial and efficient staff in sufficient numbers.

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20. Specialised training programmes for labour inspectors should be regularly organised under an over-all programme for all labour administration services. These programmes should include training in preventive techniques.

21. Particular care should be taken not to overburden labour inspectors with tasks extraneous to their primary duties, which are concerned with the application of labour laws and regulations.

22. Collaboration of the labour inspectorates with employers' and workers' organisations and with representative bodies established at the level of the undertaking should be encouraged.

#### V. LABOUR ADMINISTRATION AND LABOUR RELATIONS

23. The labour administration should make efforts to promote the idea and the practice of negotiation, consultation and collaboration.

24. The creation of permanent machinery to establish regular relations between employers' and workers' organisations and to give them the character of fruitful co-operation consistent with their respective contributions to national development should be encouraged. In particular, an effective system of co-operation and consultation should be established between the State and the employers' and workers' organisations with regard to all questions of social policy and labour legislation.

25. Employers' and workers' organisations should lend their support, co-operation and assistance to the labour administration without, however, in any way hampering or restricting freedom of association.

26. Special measures should be taken to assist small undertakings, for example by simplifying the formalities to be observed, by specific efforts to inform heads of undertakings of their obligations and by programmes for training in personnel management and productivity.

#### VI. LABOUR ADMINISTRATION AND DEVELOPMENT

27. It would be desirable to promote all practical measures adapted to the special conditions in Africa to improve the conditions of life and work of rural workers. For this purpose the labour administration should be closely associated with rural development programmes.

28. Studies should be carried out concerning the various obstacles to satisfactory enforcement of standards for the protection of workers.

29. The labour administration, being particularly well qualified to examine in depth questions relating to the utilisation of human resources and to the creation or maintenance of a social climate favourable to development, should participate actively and at the highest level in the functioning of economic and social planning bodies.

30. Regarding employment questions, the labour administration should be made responsible for the establishment of—

- (a) a system for the collection, analysis and dissemination of information on the national and regional employment markets; and
- (b) appropriate machinery for the co-ordination of its activities with those of other departments in the formulation, orientation and elaboration of human resources development programmes, as well as in their implementation.

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## VII. BUDGETARY RESOURCES AND PERSONNEL REQUIREMENTS

31. The labour administration should receive adequate financial resources and material facilities for discharging all its responsibilities effectively.

32. It should have at its disposal competent, responsible and well-paid staff in sufficient numbers.

33. (1) The staff of labour ministries and of all labour administration services in general should be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

(2) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, such staff should be recruited with sole regard to their qualifications for the performance of their duties. The means of ascertaining such qualifications should be determined by the competent authority.

(3) Such staff should be adequately trained for the performance of their duties and measures should be taken to give them appropriate further training in the course of their employment.

34. Senior officials in labour administrations should be able to cope with wider responsibilities and should receive periodical refresher training.

### **3. Conclusions submitted by the Committee on Migrant Workers, 1973**

#### A. MIGRATION POLICY

##### *General Measures*

1. The African States should frame and implement a concerted migration policy with a view to facilitating freedom of movement on a continent-wide basis for migrant workers and other workers with the nationality of one of the countries in the region and complete equality of treatment in respect of employment and occupation with nationals of the host country.

2. This policy should attempt to reconcile the following objectives:

- (a) to maintain the number of employment opportunities open to nationals of each country at as high a level as possible;
- (b) to facilitate manpower mobility between States with complementary economies; and reduce unemployment and underemployment in countries and areas where there is a permanent or periodical surplus or shortage of manpower or of skilled workers.

3. Such a policy should be borne in mind when framing national employment plans and should form an integral part of subregional and regional economic co-operation efforts.

4. This policy should be implemented by means of bilateral or subregional agreements and, at a later stage, by means of regional agreements based on an accurate estimation of:

- (a) migratory movements, their nature, scope and characteristics;

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- (b) the economic and social implications for the host countries and for the countries of origin;
  - (c) employment and manpower resources and needs, both short and long-term, in the countries concerned.

5. Permanent machinery should be set up for the purpose of framing, administering and supervising the application of a migration policy and facilitating the exchange of information and experience.

6. National and regional employers' and workers' organisations should be associated, in a suitable manner, in the framing and implementation of this policy.

7. Non-national workers may be subject to control through a system of work permits renewable at annual or longer intervals. Responsibility for decisions on the issue or renewal of work permits should lie with the competent authorities, assisted by a tripartite advisory body.

8. A work permit should carry the right to residence for the same period. In the event of losing his employment, a worker holding a residence permit should be able, within the period of validity of that permit, to seek and take up other employment of the same type. In countries which do not have work permits, the residence permit should imply the possibility of holding a job.

9. It may be possible to exempt certain non-nationals such as seasonal agricultural workers from holding a work permit. However, this should not diminish in any way the responsibility of the authorities for ensuring that these workers enjoy equal treatment with national workers.

#### *Long-Term Residents*

10. Under the terms of Paragraph 16(2) of the Migration for Employment Recommendation (Revised), 1949 (Ho. 86), migrants who have "regularly resided in the country for a period, the length of which should not, as a rule, exceed five years" should be freed from all employment restrictions and should accordingly be granted a special status, together with their families.

11. The period of residence necessary for the conferring of such status may be shorter in the case of African non-nationals and possibly vary according to national origin and the relationship between their country and the host country.

12. Non-nationals with such status and their families should enjoy equal treatment with nationals in respect of employment and occupation.

13. The ILO should co-operate with the States and the subregional and regional organisations concerned in their efforts to carry out an African migration policy, aiding them:

- (a) to make an inventory of employment and manpower resources and needs;
- (b) to draw up, administer and implement bilateral, subregional and regional agreements with respect to migration;
- (c) to analyse the causes and the economic and social effects of migration in the countries of emigration and immigration;
- (d) to take account of the migration factor in national manpower planning;



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- (e) to draw up, where necessary, subregional manpower plans.

#### B. ADMINISTRATIVE MEASURES IN CONNECTION WITH THE REDUCTION OF THE NUMBER OF NON-NATIONALS

14. Prior to the adoption of any policy for the reduction of the number of non-nationals, it is necessary for preliminary steps to be taken along the following lines:

- (a) the facts should be ascertained, through an impartial survey, as to their activities, their origin and the economic effects of their eviction, as well as to the availability of nationals to take their place;
- (b) the authorities and the tripartite advisory bodies responsible for handling employment matters should give very careful consideration to the possible repercussions upon essential services, harvesting and the normal functioning of the economy in general;
- (c) the established facts should be published and the action contemplated made known as soon as possible to the governments of countries, substantial numbers of whose nationals might be affected;
- (d) these measures should be explained fully but in simple terms and a timetable should be laid down for their implementation so as to avoid hardship or panic arising out of misunderstanding of their scope and effects;
- (e) reasonable notice should be given so as to avoid hardship and to enable non-nationals to seek alternative employment on the spot or elsewhere and the governments of their countries to take the necessary steps for their return home;
- (f) special cases should be examined and dealt with sympathetically.

15. If the transfer of large numbers of workers is involved, adequate arrangements should be made for transport, transit camps, the removal of their property, especially their tools and personal effects, and all other necessary arrangements should be made, in particular so as to enable people leaving the country to recover debts owing to them dispose of their assets and transfer their savings to the extent that these are derived from legitimate earnings.

#### C. CONDITIONS OF LIFE AND WORK AND SOCIAL INSTITUTIONS

##### *Conditions of life and Work*

16. African non-national workers, whatever their status and the circumstances under which they were admitted, should enjoy completely equal treatment as concerns:

- (a) remuneration for work of equal value and other conditions of work such as hours of work, holidays with pay and promotion;
- (b) access, for them and for members of their families living with them to social services, vocational training and health and educational facilities;
- (c) housing.

17. Steps should be taken:

- (a) to ensure that the laws and regulations respecting conditions of life and work are, adapted and properly applied to non-nationals

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- (b) to inform migrant workers by appropriate means (in particular through the setting up of permanent agencies) in their countries of origin and in the host countries, about the legislation applicable to them in the host country and about their rights and obligations deriving from this legislation;
  - (c) to check the terms of contracts and make sure that the parties concerned are really in agreement.

18. Special attention should be paid by the authorities and the occupational associations in the host countries to the problems of remuneration, hours of work, holidays with pay, social services (including medical attendance), and accommodation in branches of activity (particularly in the agricultural sector) and areas where large numbers of non-nationals are employed.

19. Where a non-national worker is admitted to the territory of a Member or has lived there for two years or longer, his family should be authorised to accompany or join him and every effort should be made to help him to find accommodation adequate for the needs of his family.

20. A non-national worker locally recruited should be entitled, on the occasion of annual holidays to visit his country of origin, it being understood that the interruption of his stay in the country of immigration does not prejudice any rights acquired or being acquired.

21. In respect of a non-national worker recruited abroad, provision should be made in the contract of work to the effect that:

- (a) on holidays, travel time required between his work station and habitual residence should be taken into consideration in determining the duration of absence; and the travel costs should be borne by the employer;
- (b) on the expiry of contract, the employer or successive employers will bear the cost of repatriation to the place of recruitment.

#### *Labour Administration and Inspection*

22. Rational labour departments in the countries of emigration and immigration and in particular the labour inspection services, should be accorded the necessary funds and facilities to enable them to supervise efficiently and continuously the migration and conditions of employment of non-nationals and give advice as to the measures to be taken to improve them.

23. Where large numbers of migrant workers are involved, there are advantages in stationing, by bilateral agreement, a representative of the labour administration of the home country in the host country to help these workers to solve their problems.

#### *Organisation and Occupational Rights*

24. Non-national workers and employers should have complete freedom to join occupational associations of their own choosing.

25. The legislation respecting the rights of non-national workers and employers should if necessary be revised, and bilateral or multilateral agreements entered into if need be, in order that non-nationals may be eligible for office in trade unions and in labour-management relations bodies.

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26. The trade unions in the countries of emigration and immigration should concern themselves with the conditions of work and life of migrants, co-operate to that effect and sponsor jointly, if necessary, educational schemes for migrant workers.

27. The ILO should, at the request of countries:

- (a) facilitate the exchange of experience between labour departments and national employers' and workers' organisations, in particular through the holding of symposia and seminars on ways and means of improving the conditions of life and work of non-nationals;
- (b) place of experts at the disposal of trade unions to assist them with the drawing up and carrying 'put of workers' education programmes for migrant workers;
- (c) undertake studies and research and suggest action to improve the conditions of life and work of non-nationals in selected sectors or regions of countries of immigration.

#### D. SOCIAL SECURITY

28. A special effort should be made to ensure that non-national workers effectively enjoy equality of treatment in respect of social security, and measures consistent with the scope and volume of African migratory movements should be worked out and put into practice, in particular as regards pensions, employment injury benefit and, where applicable, family allowances.

29. With a view to better protection for non-nationals, the co-ordination of labour legislation should be extended to all countries in Africa affected by migratory movements through the conclusion of new agreements or possibly the extension to other countries of existing agreements,

30. The 110 should, in conjunction with the competent subregional and regional organisations and with the International Social Security Association (ISSA):

- (a) undertake detailed comparative analyses of the social security systems in operation in all the countries concerned;
- (b) carry out special studies to determine the courses of action open to African States with a view to harmonisation at the subregional and regional level;
- (c) facilitate co-operation and the exchange of information and experience on a bilateral or multilateral basis between national social security institutions and administrators in the countries of emigration and countries of immigration.

#### E. EMPLOYMENT OF REFUGEES

31. The specific problems posed by the employment of refugees and the effects of existing legislation upon their circumstances should be identified and appropriate solutions sought at the subregional and regional level.

32. Any national legislation or administrative practice which might hinder the application of the provisions of international instruments relating to refugees which deal with their access to employment and maintenance in their occupations should be abolished.

33. Refugees and their families should:

- (a) have access to vocational training and vocational guidance and placement services;

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(b) have access to the types of work for which they are fitted, the fullest possible account being taken of qualifications acquired abroad;

(c) be helped, if necessary, to retrain for another occupation or activity.

34. Appropriate measures should be taken to guarantee to refugees equality of opportunity and treatment with nationals in respect of employment, occupation and conditions of life and work.

35. The ILO should co-operate with the competent national, regional and international organisations in:

(a) determining the employment needs of refugees and the resources available for this purpose in the various countries and branches of activity;

(b) drawing up and implementing special vocational training and rehabilitation programmes for refugees.

#### **4. Resolution on promoting the advance of democracy in Africa, 8th African Regional Conference, Mauritius, 1994**

The Eighth African Regional Conference of the International Labour Organization,  
Meeting in Mauritius from 19 to 26 January 1994,

Recalling that 1994 marks the 50th anniversary of the Declaration of Philadelphia which states that “all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”,

Recognizing that the full exercise of democratic freedoms is both an inalienable human right and a necessary precondition for just and sustainable economic and social development and lasting peace,

Acknowledging that serious denials of such freedoms, including trade union rights, have been serious obstacles to development in Africa,

Welcoming the process of democratic change in Africa in the period since the Seventh African Regional Conference, which has brought freely elected governments to power in many countries,

Welcoming also the decision to make *promoting the advance of democracy* one of the three priority objectives of the ILO Programme and Budget for 1994-95,

Concerned that democratization remains fragile and uncertain in many countries, faces significant opposition in some cases and is endangered by the severe and deteriorating social and economic conditions prevailing in much of the continent, which are exacerbated by the negative effects of structural adjustment programmes,

Alarmed that the extent and intensity of civil conflict makes the exercise of basic human rights impossible in a number of countries,

Convinced that genuine democratic transformation requires the establishment of effective mechanisms for popular participation, and particularly of tripartite institutions involving free, independent and representative workers' and employers' organizations as well as governments;

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1. Invites, through the Governing Body, the African member States of the International Labour Organization:

- (a) to recommit themselves to the full respect of democratic freedoms and human rights, including trade union rights;
- (b) to keep labour legislation and practice under close scrutiny, with a view to introducing whatever changes may be needed to ensure full conformity with international labour standards concerning freedom of association and to promote positive industrial relations systems which are necessary for the consolidation of participatory democracy;
- (c) to combat all forms of discrimination in employment on the basis of sex, race, colour, religion, nationality, political opinion, or ethnic origin;
- (d) to develop permanent mechanisms for tripartite cooperation as a key element of popular participation in democratic life;
- (e) to take all opportunities to promote positive change in countries where full democracy is not yet established, and peaceful settlements in those afflicted by violent civil conflict.

2. Invites the Governing Body of the International Labour Office to request the Director General:

- (a) to ensure that appropriate and adequate technical cooperation and advisory services are provided to African countries in conformity with the Organization's priority objective of promoting the advance of democracy;
- (b) to pay special attention, in this regard, to activities to strengthen independent workers' and employers' organizations and their capacity to participate effectively in democratic processes, and to promote tripartism and social dialogue;
- (c) to allocate the resources necessary to ensure that the ILO is able to meet its constitutional responsibility to provide assistance in the framing of labour laws and regulations;
- (d) to undertake an evaluation of the contribution of ILO activities to the advancement of democracy in Africa, for presentation to the Ninth African Regional Conference.

**5. Conclusions adopted by the 11<sup>th</sup> African Regional Meeting, Addis Ababa, 2007**

**Eleventh African Regional Meeting**

*(Addis Ababa, 24-27 April 2007)*

**CONCLUSIONS ADOPTED**

*The Decent Work Agenda in Africa 2007-15*

*Implementing labour standards at the workplace*

20. Although many African States have comprehensive laws concerning basic working conditions including occupational health and safety standards and minimum wages, systems to ensure their observance are weak. To raise productivity and improve living and working conditions it is important that the ILO's tripartite constituents focus on bringing up to date both the content and means of implementation of laws and collective

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agreements concerning basic minimum conditions. The strengthening of labour inspectorates is a matter of priority.

Our target is that:

*Three-quarters of all African member States develop programmes for the improvement of working conditions, with specific national targets for reducing non-compliance with laws concerning hours of work and minimum pay, the reduction of occupational accidents, diseases and days lost to illness and accidents per worker, and a progressive increase in the number of labour inspectors in relation to workers.*

*Tripartism as a key governance mechanism for inclusive poverty-reducing growth*

21. The Regional Meeting stresses that effective tripartism is a mechanism of governance that enables labour markets to function efficiently and equitably. The challenge and responsibility for the ILO and its constituents is to mobilize the potential of tripartism in Africa as a force to promote poverty reducing and socially inclusive development in the 131 context of competitive global markets. Tripartism furthermore can make a major contribution to improving the effectiveness and accountability of government. Ratification and application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), is an important support to the development of tripartism.

22. Free and independent trade unions and employers' organizations and strong institutions of social dialogue are bedrocks of democratic governance. They also have a major contribution to make to the success of Regional Economic Communities (RECs). The involvement of employers' and workers' organizations in the development, implementation, monitoring and evaluation of DWCPs and national development frameworks is vital for their success and ensures that they promote decent work. The ILO must step up its capacity building work with employers' and workers' organizations in accordance with the 2002 ILC resolution on tripartism and social dialogue. Constituents should in particular benefit from more training programmes by the ILO International Training Centre. Similarly, for the Decent Work Agenda to become part of national development agendas, ministries of labour will also need to play an active role in national macroeconomic policies, as well as growth and poverty reduction strategies and other development frameworks. This requires the strengthening of labour administration institutions such as employment services, labour inspectorates and the agencies responsible for gathering labour market information. Our target is that:

*All African States and RECs establish or further develop tripartite social dialogue institutions. New or existing mechanisms for tripartite social dialogue are fully utilized by governments in the preparation and implementation of DWCPs and national development strategies.*

## **6. Conclusions concerning the 12<sup>th</sup> African Regional Meeting, Johannesburg, 2011**

*Accelerating the Decent Work Agenda in Africa*

1. Ministers and representatives of governments and leaders of employers' and workers' organizations participating in the 12th African Regional Meeting thank the Government of South Africa for hosting the event. The country's hospitality and very efficient organization have contributed greatly to the success of the Meeting.

2. The Regional Meeting was honoured by the presence of H.E. President Jacob Gedleyihlekisa Zuma of the Republic of South Africa and H.E. Gilbert Foussou HOUNGBO,

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Prime Minister of the Republic of Togo. In addition, Ms Christina Mwelwa Kaseba-Sata, First Lady of Zambia, addressed the special focus session on women's economic and social empowerment and gender equality.

3. Delegates paid a special tribute to the ILO Director-General, Juan Somavia, who was attending the last African Regional Meeting during his tenure, and stressed his unwavering support for Africa's development and his tremendous contribution to the advancement of the Decent Work Agenda on the continent and worldwide.

4. The Meeting commended the Director-General for his Report entitled *Empowering Africa's peoples with decent work*, and the additional Reports, namely *Efficient growth, employment and decent work in Africa: Time for a new vision* and *Success Africa III: Realising a new era of social justice through decent work: Success stories from Africa*.

5. The Meeting stressed the continued importance of the Declaration, the Plan of Action, and follow-up mechanism adopted by the Extraordinary Summit of the African Union on Employment and Poverty Reduction in Africa (September 2004, Ouagadougou); they recalled the conclusions of the First African Decent Work Symposium (Recovering from the crisis: The implementation of the Global Jobs Pact in Africa, Ouagadougou, December 2009), of the Second African Social Partners' Forum (Ouagadougou, December 2009), and of the Second African Decent Work Symposium (Building a Social Protection Floor with the Global Jobs Pact, Yaoundé, October 2010). Furthermore, the Meeting took note of the conclusions adopted by the Meeting of the G20 Labour and Employment Ministers in September 2011 in Paris.

6. The Meeting expressed its deep concern about the fact that the African continent, despite significant economic growth, continued to be affected by crises such as rising youth unemployment, persistent poverty, growing inequality, widespread informality and precarious work. Moreover, Africa's economic growth was largely dependent on the performance of extractive industries and primary commodity exports and thus vulnerable to external shocks. The Meeting reaffirmed the conviction that the Decent Work Agenda provided an appropriate and comprehensive policy framework to address these crises.

7. The Meeting urged all African member States to ratify the 1986 Amendment to the ILO Constitution which would give African member states a more equitable presence in the ILO Governing Body.

8. The Meeting recognized that progress had been achieved in implementing the Decent Work Agenda in Africa (2007–15) while acknowledging that some of the targets lagged behind, in particular those related to gender equality, youth employment, migration, forced labour, HIV and AIDS at the workplace, social protection and implementation of international labour standards. Delegates stressed the importance of Decent Work Country Programmes (DWCPs) as the vehicle to identify and implement national priorities related to the Decent Work Agenda. They noted that good progress had been made in adopting DWCPs in Africa; so far, 31 DWCPs were being implemented while a further 22 were under elaboration. However, it was recognized that some of the first generation DWCPs were not sufficiently aligned with national policies and that the social partners had not been adequately involved in their formulation and implementation; moreover, there was a need for more effective tripartite DWCP formulation, implementation, monitoring and quality assurance mechanisms, as well as for joint resource mobilization strategies.

9. Many elements of a common vision for Africa are shared by ILO constituents across the continent; those areas are dealt with in the subsequent paragraphs.

10. The Meeting noted that economic growth alone was not sufficient to create employment. There was an urgent need to embark upon inclusive growth paths that create jobs and therefore reduce poverty. Government had a paramount role to play in this process by: (i) designing policies that accelerate economic growth and transform the quality of that growth; (ii) promoting regional cooperation; (iii) ensuring that jobs are not treated as the residual outcome of economic policy but they are rather its purpose; and (iv) harnessing local markets and local resources. This required the adoption of a pro-employment macroeconomic framework, the setting of explicit and quantitative employment targets in national and international policies, as well as a better coordination of, and greater coherence between, economic, financial, social and employment policies at the national level.

11. Employment policies needed to be designed taking into account the patterns of growth in each country, and should focus on specific, employment-intensive sectors, value chains and economic clusters. African countries needed to adopt active industrialization strategies to reverse past policies that led to de-industrialization; moreover, they should shift their attention towards labour-intensive sectors such as manufacturing and agro-processing, and take measures to harness the job creation opportunities emerging from the “green economy”.

12. The Meeting recognised the importance of infrastructure investments, including in roads, rail, energy and communications, for private sector development, quality public service delivery, employment growth and regional integration, and pointed out that the development of infrastructure lends itself to more employment-intensive techniques which create opportunities for local job creation. The Meeting further stressed the importance of education, skills development and lifelong learning, and called for a better alignment of technical and vocational training and research with the characteristics and requirements of the national labour markets.

13. The Meeting stressed the importance of regional integration as an engine of growth in Africa. As the continent lagged far behind other regions in boosting regional trade, the Meeting welcomed the decision by the recent tripartite COMESA–ECA–SADC Summit to form a common free trade zone comprising 26 countries and 600 million citizens. Regional integration should encompass not only trade but also cooperation in the fields of agriculture, health and education, among others.

14. The Meeting urged governments to take steps to gradually formalize work and business in the informal economy, including in rural areas. This should include the adoption at the national level of the social protection floor, and called for stronger labour market institutions and local capacities.

15. Governments should also create an enabling environment for sustainable private sector growth, investment, access to finance and the creation of small and medium-sized enterprises, all of which have an enormous job creation potential. At the same time governments should pay attention to the public sector as an important source of decent employment.

#### *Promoting youth employment*

16. The Meeting expressed grave concern about the high rates of youth unemployment and underemployment. This problem was compounded by high population growth. Thirty-two African countries now prioritized employment in general and youth employment, in particular, in their national development frameworks. The urgency of



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addressing the youth employment crisis, and the need for integrated action and multiple pathways, was reiterated.

17. The Meeting welcomed the joint initiative by the African Union Commission, the African Development Bank, the UN Economic Commission for Africa and the ILO on youth employment, and called for its translation into concrete action on the ground.

18. The promotion of youth employment must address both the supply and demand sides of the national labour markets. Measures aimed at improving the qualifications of young people were likely to improve the alignment of labour supply with the requirements of the labour markets, while measures such as pro-employment macroeconomic policies, private and public sector development, the provision of finance and venture capital and public works schemes were likely to increase the demand for labour. Active labour market policies and institutions were key to facilitate school-to-work transition. Furthermore, investing in quality jobs promotes employment growth and generates new opportunities that meet youth aspirations and qualifications.

19. Recent events in parts of Africa had shown that youth demand not only decent jobs, but also rights, justice, equity and participation. It was therefore essential to work towards further integration of youth in the societal decision-making process. The Meeting stressed the need for a more proactive role of social partners in the promotion of youth employment, as well as in the governance of youth employment institutions and the implementation of youth employment programmes.

#### *National ownership of labour standards*

20. The Meeting recognized that African countries had made impressive progress in ratifying the ILO's eight core Conventions, although problems persisted with implementation. However, the rate of ratification of the other Conventions, including those considered priority instruments, was less satisfactory. In addition, in a number of countries there was still a gap between ratification and implementation of Conventions, in particular with regard to rural, migrant and informal economy workers.

21. In order to enhance the national ownership of international labour standards it was deemed absolutely essential that workers' and employers' organizations take an active part in the standard-setting process and its follow-up at the national level. Therefore, more resources should be devoted to capacity building for constituents and other relevant target groups such as judges and labour inspectors so as to accelerate the ratification process and enforce the effective application of ratified Conventions. Constituents should set up effective social dialogue institutions and mechanisms at the national level to discuss standard-related matters.

22. The ILO should be attentive to the need to ensure that its body of standards is up to date, comprehensive and effective, and to provide technical assistance necessary for member States to meet their reporting requirements.

#### *Investing in skills and sustainable enterprises*

23. Skills development and improved employability are a cornerstone for achieving the Decent Work Agenda in Africa. However, there was a need to do better than what was reported in the ILO's midterm progress review. The lack of attention to skills development was a key obstacle to Africa's broader progress. As was set out in the 2008 ILC conclusions on skills, productivity, growth and development, skills must be coordinated with social and economic policies, including the policies around education, and integrated into national development frameworks. Government has an important role in ensuring coherence and effectiveness; moreover, it should facilitate replication of successful pilot

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projects and good practices to provide greater impact. The need for stronger alliances with social partners was emphasized.

24. To further address skills mismatches, which continue to be a recurrent problem, and to better anticipate future needs a number of proposals were made:

- (a) A more prominent involvement of the private sector and workers' organizations in the design, planning, monitoring of training – including curriculum development – was needed to ensure that the human resource capacity adequately responded to the current and future needs of enterprises and workers.
- (b) There was a need to improve the quality and relevance of training.
- (c) Lifelong learning and re-skilling approaches were required to ensure that the workforce can adapt to newly emerging labour market needs and opportunities. It has proven particularly important as part of the crisis response.
- (d) Young people needed support to facilitate a smooth transition to the world of work, through among others, career counselling, mentoring, and improving access to information.

#### *Rural employment, industrial development and structural transformation*

25. With almost three quarters of the African population living and working in rural areas, there was renewed attention to rural employment among governments and social partners. Comprehensive national programmes, providing integrated packages of services that address the multi-dimensional aspects involved – from storage to market access, to access to finance, to overall infrastructure development and access to social services – were called for. These should focus simultaneously on improving productivity, living standards of rural workers and their rights, and decent working conditions. Improved social dialogue and involvement of the social partners could greatly enhance policy coherence in this area and would ensure that the needs of workers as well as business were addressed. The mandate for the ILO on rural employment which was spelled out in detail in the ILC conclusions of 2008 on rural employment remained very relevant to the needs of member States in Africa.

26. The agricultural sector should evidently be the focus – as it is here that one finds the highest labour absorption – giving due attention to food security. At the same time, the Meeting requested governments to take necessary measures to create an enabling environment for small and medium-sized enterprise development which also goes beyond the agricultural sector, involving industrialization policies and broader structural transformation. Many jobs could be created and youth could be motivated to stay in rural areas instead of migrating to cities. This required attention to a number of additional areas than those mentioned above, such as investment in infrastructure including roads, schools and health services, and the active promotion of rural areas as an environment where decent work becomes a reality.

#### *Moving out of informality – The role of the social economy*

27. The Meeting recognized that in Africa, about two-thirds of all job opportunities and livelihoods have been created by the informal economy. However, the Meeting deplored that workers and operators in the informal economy were affected by severe decent work deficits in terms of rights, incomes and working conditions, protection and voice and representation.

28. It was also emphasized that priority must be given to the process of formalization.

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29. The Meeting expressed the view that because of their nature, values, principles and characteristics, social economy organizations and enterprises were well suited to build a bridge between the informal and formal economies, and to reduce the aforementioned decent work deficits.

30. Governments should take the following measures to promote the social economy: (i) create a conducive legal and institutional environment; (ii) establish a framework for consultation and exchange of knowledge; (iii) build the capacity of social economy leaders, promoters and regulators; (iv) fight discrimination of any form in the social economy; and (v) apply the values and principles of the social economy to public policy.

*Achieving women's economic and social empowerment and gender equality*

31. The Meeting expressed concern that, in spite of progress being made, there was still much gender inequality and widespread discrimination. Women were largely confined to low income and low-quality jobs. The gender pay gap had not yet been closed. Governments should continue to give priority to gender equality in education as this was a primary condition for women's empowerment. There were already a number of commitments on gender equality which should be respected and implemented as a matter of urgency.

32. The Meeting called for increased ratification of Convention No. 183 on maternity protection, and a better observation of its principles, which are essential conditions for realizing the Decent Work Agenda. African countries should also aim at ratification of Convention No. 189 on domestic workers, which was widely applicable to the most vulnerable of workers, involving mainly women. Also important was the need for better implementation of the widely ratified Conventions Nos 100 and 111. To avoid a discriminatory crisis response, governments should pay due attention to gender issues when designing recovery packages, and take measures that ensure that it was not only the "male dominated" sectors that benefited.

*Social dialogue as a key governance mechanism*

33. The Meeting noted that there was now recognition across the continent that social dialogue was a key governance mechanism and there was better institutionalization and availability of frameworks for social dialogue. Several good practices were emerging. Still, all partners were to engage in better articulation of tripartism as a tool for governance, and ensure its effective operationalization. Continued efforts were needed to improve the representativeness of workers and employers in existing bodies, especially for workers and operators in the informal economy. Active participation of social partners in peace building and recovery was seen as essential.

34. The Meeting also expressed concern about the limited application of existing important labour standards, including Conventions Nos 87, 98, 144 and 151. They emphasized the important role of training, exchange of experiences and other knowledge-building and sharing measures. The Meeting reaffirmed the value of invoking the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) to expand social dialogue to include MNEs and their influence in global value chains.

*Building a social protection floor in Africa*

35. The Meeting recognized that the social protection floor (SPF) concept, that had been developed by the ILO and the UN Social Protection Floor Initiative, and that was first adopted through the Yaoundé Declaration on the Implementation of the Social Protection Floor in October 2010, had been widely accepted by ILO constituents in Africa. The

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Meeting noted the need for widespread support for the progressive development of national social protection systems.

36. Considerable progress towards higher levels of social protection coverage had been achieved in a number of countries which showed that even in situations of tight budgetary constraints some investment in social protection can be made. The Meeting noted that social protection was a mutually reinforcing policy tool to achieve social cohesion, combat poverty and social exclusion, and achieve economic progress.

37. The Meeting identified a number of principles for the implementation of national social protection policies along the two-dimensional approach that was developed by the Yaoundé Declaration and the International Labour Conference in June 2011. Those are:

- (a) a minimum level of nationally defined and guaranteed social outcomes should be ascertained;
- (b) guarantees should be rights based;
- (c) the participation of social partners in the planning and management of social protection schemes in order to ensure good governance and national consensus was deemed indispensable.

38. Mobilization of domestic resources remained the central challenge for the implementation of national SPF policies. Domestic resource mobilization required investments in good governance, which was one of the key tools to accelerate the progressive formalization of the informal economy. In turn, formalization is a necessary condition for the long-term sustainability and improvement of national social protection schemes.

39. The Meeting requested the International Labour Office to assist in improving governance and supporting the formulation of national policies through intensified capacity-building programmes; the ILO might consider approaching donors to mobilize funding for innovative programmes.



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## Labour Inspection

### 1. Resolution concerning Labour Administration, Including Labour Inspection in Africa, 3rd African Regional Conference, Accra, 1969<sup>42</sup>

The Third African Regional Conference of the International Labour Organisation, meeting in Accra from 8 to 18 December 1969,

Conscious that ministries of labour have a vital responsibility for the promotion of social progress, which is the cornerstone of political stability and should be the purpose of economic development,

Aware that their ability to fulfil this responsibility depends upon the financial and material resources made available to them and upon their status and authority in relation to those of other government departments,

Concerned at the variety and gravity of the social and economic problems stemming from the difficulties encountered by ministries of labour in discharging their responsibility with regard to manpower, labour relations, the application of labour standards and the evolution of labour policies,

Bearing in mind the conclusions adopted by the African Advisory Committee of the International Labour Organisation at its Third Session in Dakar in October 1967;

Adopts the following resolution and recommends the Governing Body of the International

Labour Office to transmit it to the African States Members of the International Labour Organisation in order that they may take account of these considerations and apply the principles and measures set forth therein.

#### I. RESPONSIBILITIES OF LABOUR ADMINISTRATION

1. The development of social policy should constitute one of the major concerns of the policies of each African country, and should be fostered by effective, strong and dynamic ministries of labour participating fully in the process of development planning at the highest level.

2. Social policy should be given the same importance and priority as policy in the fields of finance, economic planning, justice, internal security and foreign affairs, and all appropriate institutional measures should be taken for this purpose.

3. The basic concept of labour administration should reflect the responsibilities falling to the State in respect of equality of opportunity, economic security and social justice for all citizens and should be aimed at increasing the contribution made by labour administration to the political stability, economic prosperity and social progress of the African countries.

4. The labour administration service should be the main body responsible for the formulation of social policy and for its effective implementation. It should not confine its functions to the enforcement of regulations, but should also make its own contribution to

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<sup>42</sup> Adopted 17 December 1969.

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raising the national income. For this purpose it should have appropriate structures, methods and resources.

5. Social policy, together with the legislative and administrative action giving effect to it, should be prepared by means of specific studies and permanent research undertaken to deal with the problems which arise, by ascertaining their causes, evaluating their extent, establishing their order of priority and foreseeing their immediate and long-term repercussions.

6. The action of labour administration should be based on continuous study and research so that such action corresponds effectively to the social and economic realities of the countries concerned and to their needs.

7. Labour administration should assume a role comprising information, standard-setting and executive services.

8. In no case should it be forgotten that the adoption of a new legal standard, whether as a result of a governmental or parliamentary initiative, is accompanied by measures which go beyond the adoption procedure as such and is preceded by preparatory work for which the labour administration is explicitly or implicitly responsible. Where the prior intervention of tripartite advisory bodies is desirable, the labour administration should play an important part in their functioning. The adoption of legislative texts should be followed, where appropriate, by the adoption of regulations designed to lay down standards for applying the principles set forth in the law and should be supplemented by means of collective bargaining.

9. The labour administration should be enabled to fulfil effectively its traditional responsibilities with regard to labour inspection, industrial relations, employment and vocational training services, social security, wage fixing machinery and occupational safety and health.

For this purpose, appropriate measures for the organisation of services should be taken to ensure that these services have a structure corresponding to their respective functions and that their responsibilities are properly defined.

## II. STRUCTURE OF LABOUR ADMINISTRATION SERVICES

10. Appropriate models should be devised by the competent authority for the organisation of labour administration, taking into account the special needs of the country concerned.

11. Every measure should be taken to bring within the competence of ministries of labour all questions respecting labour and manpower as well as the related services.

12. It would be especially desirable for measures to be taken—

- (a) to grant to the labour administration chief responsibility for manpower and vocational training in collaboration with any of the other administrative departments concerned; and
- (b) to combine under one general labour inspectorate all services for the supervision of the application of laws and regulations relating to labour and to occupational safety and health.

13. Measures should also be taken—

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- (a) to ensure, through appropriate hierarchical structures, over-all co-ordination of the activities of ministries of labour at top level;
  - (b) to establish research and planning units within labour ministries;
  - (c) to establish clear responsibilities for over-all policy and for executive action respectively;
  - (d) to organise separately, as soon as possible, labour inspection services, on the one hand, and industrial relations services, on the other;
  - (e) to establish within labour ministries appropriate services responsible for employment, placement and vocational training questions, with clear identification of their respective functions; and
  - (f) to adopt any further measures required by national circumstances.

14. Statutory representation of ministries of labour on planning bodies should be ensured.

15. Finally, account should be taken of—

- (a) the desirability of providing permanent institutional links with other administrative departments at the national and regional levels, especially regarding economic planning and human resources development; and
- (b) the desirability of co-operation at the local level with other administrative departments with a view to setting up administrative infrastructures in the rural areas and of coordination of their activities by appropriate methods, such as exchanges of information and mutual aid between local services.

### III. FUTURE PERSPECTIVES OF LABOUR ADMINISTRATION

16. The labour administration should be encouraged to extend the scope of its competence progressively to cover the whole of the national work force in such a way that this competence is determined not simply by the nature of the legal relationship between the worker and his employer.

17. Information for employers and workers, as well as for the public in general, should be intensified by recourse to modern techniques for dissemination of information best suited to the sectors for which the information is intended.

### IV. LABOUR INSPECTION

18. (1) The vital role of labour inspection as an essential area of labour administration should be recognised.

(2) Member States should take all measures to give full effect, through the practical modalities suited to national circumstances, to the provisions of the Labour Inspection Convention, 1947, and the Labour Inspection (Agriculture) Convention, 1969.

19. Labour inspectorates should be assured of all the necessary means, including transport, suitable offices and facilities, for the effective performance of their functions. They should have qualified, responsible, independent, impartial and efficient staff in sufficient numbers.



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20. Specialised training programmes for labour inspectors should be regularly organised under an over-all programme for all labour administration services. These programmes should include training in preventive techniques.

21. Particular care should be taken not to overburden labour inspectors with tasks extraneous to their primary duties, which are concerned with the application of labour laws and regulations.

22. Collaboration of the labour inspectorates with employers' and workers' organisations and with representative bodies established at the level of the undertaking should be encouraged.

#### V. LABOUR ADMINISTRATION AND LABOUR RELATIONS

23. The labour administration should make efforts to promote the idea and the practice of negotiation, consultation and collaboration.

24. The creation of permanent machinery to establish regular relations between employers' and workers' organisations and to give them the character of fruitful co-operation consistent with their respective contributions to national development should be encouraged. In particular, an effective system of co-operation and consultation should be established between the State and the employers' and workers' organisations with regard to all questions of social policy and labour legislation.

25. Employers' and workers' organisations should lend their support, co-operation and assistance to the labour administration without, however, in any way hampering or restricting freedom of association.

26. Special measures should be taken to assist small undertakings, for example by simplifying the formalities to be observed, by specific efforts to inform heads of undertakings of their obligations and by programmes for training in personnel management and productivity.

#### VI. LABOUR ADMINISTRATION AND DEVELOPMENT

27. It would be desirable to promote all practical measures adapted to the special conditions in Africa to improve the conditions of life and work of rural workers. For this purpose the labour administration should be closely associated with rural development programmes.

28. Studies should be carried out concerning the various obstacles to satisfactory enforcement of standards for the protection of workers.

29. The labour administration, being particularly well qualified to examine in depth questions relating to the utilisation of human resources and to the creation or maintenance of a social climate favourable to development, should participate actively and at the highest level in the functioning of economic and social planning bodies.

30. Regarding employment questions, the labour administration should be made responsible for the establishment of—

- (a) a system for the collection, analysis and dissemination of information on the national and regional employment markets; and
- (b) appropriate machinery for the co-ordination of its activities with those of other departments in the formulation, orientation and elaboration of human resources development programmes, as well as in their implementation.

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## VII. BUDGETARY RESOURCES AND PERSONNEL REQUIREMENTS

31. The labour administration should receive adequate financial resources and material facilities for discharging all its responsibilities effectively.

32. It should have at its disposal competent, responsible and well-paid staff in sufficient numbers.

33. (1) The staff of labour ministries and of all labour administration services in general should be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.

(2) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, such staff should be recruited with sole regard to their qualifications for the performance of their duties. The means of ascertaining such qualifications should be determined by the competent authority.

(3) Such staff should be adequately trained for the performance of their duties and measures should be taken to give them appropriate further training in the course of their employment.

34. Senior officials in labour administrations should be able to cope with wider responsibilities and should receive periodical refresher training.



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## American Regional Conferences and Meetings

### Labour Administration

#### 1. ***Resolution concerning an enquiry into agricultural statistics in the American countries, 1936***

The Labour Conference of the American States which are Members of the International Labour Organisation;

Considering the necessity for providing statistics on agricultural work and for perfecting and co-ordinating agricultural statistics in the greater part of the American countries;

Considering the competence and the interest of the International Labour Organisation as regards the economic and social conditions in America in respect of agriculture;

Recommends to the Governing Body:

- (i) That the International Labour Office should study the possibility of carrying out an enquiry among the Governments of all the American countries concerning the form, the motives, the periodicity and the scope of the various statistics concerning agricultural work already in existence and also concerning the possibility for each Government of instituting, collecting, extending and co-ordinating internationally such statistics in regard to agricultural work, including both crop-raising and cattle-breeding;
- (ii) In general, that the International Labour Office should draw the attention of the Governments of the American countries to the desirability of making permanent provision for the supply of uniform agricultural statistics covering the rural population, the population economically active in agriculture, the various agricultural occupations pursued by the wage-earning classes (whether those classes be of a permanent or of a casual character, and with due regard for the average number of days worked by each wage earner) and also by non-wage-earners;
- (iii) That the International Labour Office should study the possibility of determining basic principles for the calculation of agricultural statistics with regard to rural occupations based on the amount of labour employed per unit of area, and time per unit of area, per unit of weight and per operation, at least for the more important crops of each country.

#### 2. ***Resolution concerning the establishment of advisory tripartite committees, 1939***

Whereas it is an essential feature of the International Labour Organisation that representatives of employers and workers take part in its deliberations upon the same footing as the representatives of Governments; and

Whereas the co-operation between Governments, employers and workers which has been stimulated by the existence and work of the Organisation has proved to be of the highest value in promoting a constructive, sane and realistic approach to the solution of social and labour problems; and

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Whereas the intensification of such co-operation in pursuit of sustained progress has become of greater importance than ever before in view of the destructive forces which now menace civilisation; and

Whereas effective international co-operation on a tripartite basis is possible only if adequate arrangements for systematic co-operation between Governments, employers and workers exist within each country;

The Second Labour Conference of American States which are Members of the International Labour Organisation:

Requests the Governing Body of the International Labour Office to take steps to have established in each of the American countries a representative tripartite committee to keep under review conditions of employment, to serve as a link between the Governments, employers and workers of the country concerned and the International Labour Organisation, and to act as an advisory body upon labour questions available for consultation both by the Government of the country concerned and by the Governing Body of the International Labour Office in respect of questions within their competence.

### **3. *Resolution concerning uniformity in labour statistics, 1939***

Whereas the International Labour Organisation has always maintained the importance of establishing uniformity in labour statistics as the only manner of giving statistical data an international significance and value; and

Whereas the five International Conferences of Labour Statisticians already convened by the International Labour Office have achieved very important results in fixing general bases for the formulation of labour statistics; and

Whereas uniformity is still lacking in respect of the methods of collection of data for the exposition of statistical phenomena; and

Whereas it is of particular interest to the countries of America to have at their disposal uniform statistics in order to facilitate comparisons between the labour conditions of the different countries;

The Second Labour Conference of American States which are Members of the International Labour Organisation:

Requests the Governing Body to instruct the International Labour Office to prepare forms and instructions for the purpose of securing uniformity in all labour statistics both as regards their structure and as regards methods of collection of data, and urge upon the countries of America the desirability of their taking action at the earliest possible date to ratify; and give full effect to the Statistics of Wages and Hours of Work Convention 1938, (No. 63) and the suggestions relating to statistics made by the International Labour Office itself.

### **4. *Resolutions concerning collaboration between the public authorities and the employers' and workers' organizations, 1946***

Whereas the New York Conference (1941) recognised the universal and permanent value for all States of effective collaboration between the public authorities and the employers' and workers' organisations, and requested the Governing Body of the International Labour Office to place the question of methods of collaboration on the agenda of an early session of the Conference;

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Whereas, in the Declaration of Philadelphia, the International Labour Conference recognised the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve among other objectives: “The co-operation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in the preparation and application of social and economic measures;

Whereas reconversion from a war economy to a peace economy, the reconstruction of the countries devastated by the war, and the industrialisation of the countries which are economically less developed, require a sustained and concerted effort on the part of the Governments and the organisations of employers and workers;

Whereas a large number of States have in fact resorted to co-operation with employers’ and workers’ organisations for the furthering of their programmes of reconversion, industrialisation or reconstruction,

The Third Conference of the American States Members of the International Labour Organisation requests the Governing Body to entrust the Office with the task of making an enquiry into the methods of collaboration in the different countries with a view to placing that question on the agenda of an early session of the Conference.

## **5. *Resolution concerning the extensions of collective agreements, 1946***

Whereas the employers and workers who accept in good faith the principle of collective bargaining should be protected against the adverse effect of unfair competition in regard to the regulation of conditions of work;

Whereas the extension of collective agreements to certain minorities appears to be the most appropriate means to ensure stability in the regulation of conditions of work as established by collective agreements;

Whereas the interest of such minorities must be duly safeguarded,

The Third Conference of the American States Members of the international Labour Organisation calls the attention of the States Members of the Americas in which extension of collective agreements is or may be provided for by national laws or regulations to the following principles and conditions which should be at the basis of national laws and regulations:

- (1) The collective agreements should be made applicable only to the employers and workers who operate within the industrial or territorial scope of the agreement as determined by the contracting parties.
- (2) Only those collective agreements which have been voluntarily agreed to and which bind the majority of the workers and the majority of the employers (who must also employ the majority of the workers) may be the subject of the legal extension.
- (3) The employers and workers who may be brought under the provisions of the collective agreement must be previously consulted and authorised to submit their observations and objections.
- (4) The extension of a collective agreement should only be effected if the competent authority is satisfied that the employers to be brought under its provisions are in a position to enforce the conditions of employment stipulated in the agreement without endangering the economic existence of the undertakings.

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**6 Resolution concerning Action by the ILO in the Field of Social Participation in the Development Process, 9<sup>th</sup> Conference of American States Members, Caracas, 1970<sup>43</sup>**

The Ninth Conference of American States Members of the International Labour Organisation, meeting in Caracas from 13 to 23 April 1970,

Having adopted a resolution concerning social participation in the development process,

Considering that the International Labour Organisation can play an important role in this field;

Invites the Governing Body of the International Labour Office to instruct the Director-General—

- (a) to seek the co-operation of other international and regional organisations, within the context of the United Nations Second Development Decade, in order to co-ordinate efforts relating to international activities in favour of social participation;
- (b) to examine the possibility of providing appropriate technical assistance to governments in the establishment and consolidation of the statutory and institutional framework of social participation;
- (c) to take steps with a view to stimulating the exchange of information and experience among the countries, as well as among employers' and workers' organisations of the region on matters dealing with participation in the process of economic and social development;
- (d) to strengthen activities of the ILO in the field of workers' education, assigning increasing importance to the training of trade union leaders and representatives so that they can more effectively perform their responsibilities in the participation bodies;
- (e) to strengthen the activities of the ILO in the field of management training, with particular emphasis on organising, in co-operation with employers' organisations, training programmes for their members related to their participation in development and its asocial aspects;
- (f) to examine, in consultation with the governments of the region and with the Organisation of American States, appropriate means for continuing and, where necessary, expanding the useful work of the Inter-American Labour Administration Centre which the ILO has established in Lima;
- (g) to study the possibility of setting up training programmes for rural organisations and other institutions in the agricultural sector, similar to those organised for workers of the industrial sector, with a view to enabling them to discharge their responsibilities in the field of participation in the development process.

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<sup>43</sup> Adopted unanimously on 21 April 1970.

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**7. Resolution concerning the Intensification of ILO Activity to Strengthen Certain Aspects of Tripartism in the American Region, 10<sup>th</sup> Conference of American States Members, Mexico City, 1974<sup>44</sup>**

The Tenth Conference of American States Members of the International Labour Organisation,

having met in Mexico City from 26 November to 5 December 1974,

Recalling the adoption by the International Labour Conference in 1971, by an overwhelming majority and unopposed, of a resolution concerning the strengthening of tripartism in the over-all activities of the International Labour Organisation,

Welcoming the intensification of ILO activity in implementation of this resolution, which means a strengthening of the employers' and workers' organisations, particularly in the developing countries, as reflected in the programme and budget for 1974-75,

Welcoming similarly the decision of the Governing Body to include as an item on the agenda of the 1975 International Labour Conference "Establishment of national tripartite machinery to improve the implementation of ILO standards", and the placing of the item "Labour administration: role, functions and organization" on the agenda of the 1976 International Labour Conference,

Aware of the need for more vigorous action on the part of regional advisers whose responsibilities are the technical co-operation programmes with the employers' and workers' organisations which should be carried out in consultation with the Employers' and Workers' members of the Governing Body that belong to the region and with the ILO employers' and workers' relations services,

Stressing the need to place adequate means at the disposal of the regional advisers for the effective accomplishment of their activities,

Considering the advisability of granting greater opportunities to the regional advisers of discussing the problems presented by the employers' and workers' organisations in the region, of informing these organisations of possible technical assistance that the ILO can offer, and of formulating significant programmes of technical assistance with the view of better identifying the needs of these organisations and of providing them with more adequate assistance,

Considering the need to give regional advisers the means to establish contact with the employers' and workers' organisations in each region, and with representatives of these organisations on occasions such as regional conferences and the International Labour Conference;

Requests the Governing Body of the ILO, when examining the proposed programme and budget for 1976-77, to include sufficient resources so that the regional advisers, who work with the occupational organisations, can intensify their action, establishing stronger working relations with these organisations in their respective countries, as well as on regional or international levels, when these meet collectively either on the occasion of the annual sessions of the International Labour Conference or during regional conferences.

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<sup>44</sup> Adopted at the tenth plenary sitting, 5 December 1974.



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**8. Resolution concerning the Strengthening and Furthering of Tripartite Co-operation, 10<sup>th</sup> Conference of American States Members, Mexico City, 1974<sup>45</sup>**

The Tenth Conference of American States Members of the International Labour Organisation, having met in Mexico City from 26 November to 5 December 1974,

Convinced of the value of the principles of tripartite co-operation and of the need to strengthen their application in the region,

Understanding that tripartism should operate within the evolution of each society as a dynamic element and as an element of co-operation, guaranteeing full freedom of association and independence of the three different sectors which are involved in the tripartite process and which form a part of each society,

Persuaded that it is necessary to enlarge the basis of such co-operation and promote tripartism in the fields of labour and social policy,

Considering that the observance of the principle of freedom of association and the strengthening of the representative bodies are basic to the full development of countries,

Noting the provisions of various Conventions, Recommendations and resolutions adopted by the ILO which enunciate the relevant principles of tripartite co-operation,

Noting further the relevant conclusions adopted by the Fourth Session of the Inter-American Advisory Committee, held in Lima in September 1973;

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Recommends the governments of the region:

- (a) to establish, at the national and regional level, tripartite bodies in keeping with the degree of economic and social development and the political and cultural circumstances of each country;
- (b) to follow, in establishing such bodies, flexible criteria that take into account the interests of the parties and the institutional framework of each country and to seek to adjust to the greatest possible extent the general scope of action of such bodies, as well as the powers with which they are vested, to the particular conditions of each country;
- (c) to secure in the composition and structure of such bodies all due respect for the principles of equity and equality of treatment and for the autonomy of each group;
- (d) to adopt adequate standards for the regular, expeditious and effective functioning of tripartite bodies;
- (e) to ensure that the powers of such bodies bear a close relationship to the range and subject-matter for which they were established; and, in the case of bodies with general competence, to impart to their operations a consultative and informative role oriented towards social change, without thereby excluding the possibility of specialised bodies or bodies concerned with specific matters being endowed with the necessary powers to fulfil their tasks;

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<sup>45</sup> Adopted at the ninth plenary sitting, 4 December 1974.

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- (f) in order to give real meaning to tripartite bodies, to facilitate the strengthening of the participating organisations and, in particular, to guarantee full freedom of association, as defined in Convention No. 87, which provides that workers have the freedom to establish and to join trade union organisations of their own choosing;
  - (g) to consider the strengthening of labour administrations and, in particular, labour ministries as an essential factor in the promotion and development of tripartite cooperation;
  - (h) to ensure that the rights and independence of employers' organisations be fully respected so that they may participate effectively in the work of tripartite co-operation;
  - (i) to ensure, in determining the objectives and nature of tripartite co-operation bodies, that they do not replace representative bodies of the nation, which have been set up in accordance with its political organisation, or take the place of collective bargaining processes;
  - (j) allowing for the special conditions of each country, to include among the fields of competence particularly suited to tripartite co-operation policies relating to wages, industrial relations, social security, promotion of equal rights, occupational safety and health, protection of migrant workers, conditions of work, participation in the process of economic and social planning under conditions of economic and political independence, inflation, vocational training, productivity and the protection of the environment with particular reference to the work environment;
  - (k) to give special attention to the use of tripartite co-operation as a means of strengthening international technical co-operation and subregional integration schemes;
  - (l) to consider with particular interest the establishment of national tripartite machinery to assist governments to improve the implementation of ILO standards and to advise governments regarding the ratification possibilities of other ILO instruments;
  - (m) to apply the principles of tripartism to the methods of participation existing in the government and in the public sector of each country.

## II

Recommends the International Labour Office and the American States Members of the International Labour Organisation to give special attention to the study of other modes and practices of co-operation, consultation and participation which, within the spirit of tripartism, have arisen in the region.

### **9. Resolution concerning Supporting and Strengthening the Inter-American Labour Administration Centre (CIAT), 11<sup>th</sup> Conference of American States Members, Medellin, 1979**

The Eleventh Conference of American States Members of the International Labour Organisation,

Meeting in Medellin, Colombia, from 26 September to 5 October 1979,

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Convinced of the usefulness and importance for the region of the Inter-American Labour Administration Centre (CIAT),

Taking into account that the fundamental objective of CIAT is to collaborate in the improvement of the standard-setting and operative structures of labour administrations in order to make them effective instruments of progress and of the elaboration, execution and supervision of labour policy in the context of national development plans,

Conscious that CIAT's terms of reference call for it to be in close contact and collaboration with the competent authorities, organisations of employers and workers, academic institutions and institutions which carry out studies and investigations in the social field, and in particular with officials of the labour administration who could contribute in some way to the achievement of immediate practical results and later to the concrete implementation of the recommendations of CIAT, as well as to extending its activities at the national level;

1. Recommends to the countries of the region that they support and strengthen the Inter-American Labour Administration Centre through maintaining permanent communication with it and through a systematic and continued exchange of information, experience, activities and consultations, while increasing their technical and supervisory co-operation in this field,

2. Recommends also that measures be taken for the early institutionalisation of CIAT within the ILO, so that it may more effectively fulfil its objectives and functions in the field of labour administration in the region, in addition to strengthening tripartism.

**10. Resolution concerning the strengthening of tripartism in the States of the Americas and in the activities of the International Labour Organisation, 12<sup>th</sup> Conference of American States Members, Montreal, 1986**

The 12th Conference of American States Members of the International Labour Organisation,

Having met in Montreal from 18 to 26 March 1986,

Recalling that the principles of tripartism is vigorously confirmed in the Declaration of Philadelphia, where it is stated that the war against want requires to be carried on "by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare",

Believing that tripartism must be a dynamic element of co-operation in the development of any society,

Recognising that the existence of independent organisations of employers and workers is a precondition for the operation of tripartism, and that the social partners will be able to make a genuine contribution to the social progress of their countries only if this independence is assured,

Convinced of the need to develop and strengthen tripartism in the region, where many governments fail to facilitate its implementation,

Considering that tripartism must exist on a permanent basis and not only in situations of crisis when it is resorted to specifically for the purpose of obliging the other parties to share the government's responsibilities,

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Bearing in mind the provisions of the various Conventions, Recommendations and resolutions referring to tripartism adopted by the International Labour Organisation,

Noting especially that only nine States of the 33 American States Members of the International Labour Organisation have ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the importance of implementing the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152),

Recalling in particular the resolution concerning the strengthening and furthering of tripartite co-operation adopted by the 10th Conference of American States Members of the International Labour Organisation in 1974,

Concerned at the fact that certain American countries do not respect the provisions of the Constitution of the International Labour Organisation which stipulate that governments of member States are to pay the travelling and subsistence expenses of their Government, Employers' and Workers' delegates and advisers at sessions of the International Labour Conference,

Likewise concerned at the frequent imbalance between the number of Government, Employers' and Workers' participants whose expenses are paid by Governments,

Deploring the fact that at the 71st Session of the International Labour Conference five American States sent no delegation, some did not send non-governmental delegates, and several Employers' and Workers' delegates had to pay their own expenses, and the fact that a number of governments are not sending tripartite delegations to this regional conference and others are not fulfilling their obligation to pay the travel and subsistence expenses of Employers' and Workers' delegates and advisers,

Aware that there are governments which do not comply with obligation to appoint delegates in agreement with the most representative organisations of employers and workers, and that there are others that demand lists of candidates from which the government may make a choice, which is contrary to the provisions of the Constitution of the International Labour Organisation,

Nevertheless, aware that compliance with the constitutional obligation to pay the travel and subsistence expenses of Government, Employers' and Workers' delegates and advisers to sessions of the International Labour Conference represents a very heavy burden for many countries that are distant from Geneva,

Firmly supporting the decision of the Governing Body of the International Labour Office to establish a working party to examine proposals for the amendment of article 13 of the Constitution with a view to permitting the inclusion in future budgets of provisions for the financing of complete tripartite delegations from certain member States, as well as to examine the possibility of amending article 4 of the Constitution so as to withdraw all voting rights from incomplete delegations to Conferences of the ILO, with a view to including these questions on the agenda of a future session of the International Labour Conference;

Invites the Governing Body of the International Labour Office—

(a) to request the governments of American States—

(i) to ratify the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144);

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- (ii) to establish and strengthen permanent tripartite bodies at the national level, and where possible at the regional level, ensuring the fullest respect for the principles of equality, fair treatment and autonomy of each group;
  - (iii) to send to the International Labour Conference and to Conferences of American States Members of the International Labour Organisation delegations which are representative, tripartite and balanced as to the number of their participants, paying the expenses of each of the participants;
- (b) to request the Director-General of the International Labour Office—
- (i) to carry out a study of the practice of tripartism in the States of the American region;
  - (ii) to continue studies examining the extent to which, and the reasons for which, some member States of the American region do not comply with their obligation to send tripartite delegations to the International Labour Conference or to regional conferences, paying their travel and subsistence costs, and the measures that might be taken to remedy this situation, and to inform the next session of the Inter-American Advisory Committee of the results of these on-going studies;
  - (iii) to use all the means available to him to draw the attention of the governments of member States to their constitutional obligation to pay the travel and subsistence expenses of delegates to the International Labour Conference; and in the case of governments that have not sent full tripartite delegations to the 12th Conference of American States Members of the ILO, to draw their attention to the importance of sending full tripartite delegations to future sessions;
- (c) to complete as early as possible the work of examining the possibility of amending article 4, paragraph 2, and article 13, paragraph 2, of the Constitution of the ILO aimed at encouraging and facilitating the representation of member States at the annual sessions of the International Labour Conference by full tripartite delegations.

## **11. Conclusions concerning the 14<sup>th</sup> American Regional Meeting, Lima, 1999**

[...]

7. We are convinced of the importance of real social dialogue. There is a need to strengthen the social partners so that common solutions can be reached which will lend policies greater legitimacy and promote the fair distribution of the benefits of growth.

8. Governments should establish relevant tripartite mechanisms and eliminate any obstacles which hinder the safeguarding of freedom of association for both workers and employers.

9. The ILO should increase its technical assistance for the modernization and upgrading of ministries of labour and should strengthen training activities for workers' and employers' organizations.

10. In order to promote an equitable distribution of the benefits of growth, policies must be the result of broad tripartite social dialogue. This dialogue should lead to programmes to promote the creation of decent work and security for all, which are

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supported by the social partners. The ILO should, at the request of its constituents, facilitate national and regional initiatives for social dialogue.

[...]

## **12. Conclusions concerning the 15<sup>th</sup> American Regional Meeting, Lima, 2002**

[...]

9. We are confident that, with the ILO's assistance, we will achieve a culture of dialogue and negotiation that will enable us to develop equitable and harmonious labour relations and effective systems for the settlement of disputes. That culture should be based on freedom of association, mutual respect, ongoing vocational training, collective bargaining and other forms of dialogue, improvements in the conditions of work, and effective information and consultation machinery that can be used to define appropriate methods and forms of work and create conditions for decent jobs.

10. We pledge to design, through participative and responsible social dialogue, vocational training and ongoing education policies that are conducive to the full development of persons, not only with a view to improving incomes, but also to open up employment opportunities without discrimination, and to raise productivity which generates competitiveness, stability, growth and decent work.

11. It is in this spirit that we consider that it is necessary to establish programmes to strengthen labour administrations so that they may provide effective services to users, lend support to agreements between organizations of workers and employers, and effectively apply social policies and labour legislation. In the same context, because we believe that a safe working environment breeds confidence and boosts productivity, we consider it indispensable to establish occupational safety and health policies that protect the lives and health of workers by preventing occupational accidents and diseases. We attach special importance to active prevention policies to deal with HIV/AIDS, and request the Office to develop specific programmes to deal with this pandemic.

[...]

## **13. Conclusions concerning the 17<sup>th</sup> American Regional Meeting, Santiago, 2010**

1. We, the tripartite delegations of the Americas present at the 17th American Regional Meeting of the International Labour Organization, appreciate and value the Report of the Director-General, entitled *The Decent Work Decade in the Americas: 2006–15 – Agenda for the Hemisphere: Initial assessment and perspectives*.

2. We consider that the Report contains a valuable analysis of the developments that have occurred in our region with regard to decent work during the period under review. We underline the progress made on the Agenda, despite the consequences of the international financial crisis, which in some cases has had a temporary negative impact in certain areas. The tripartite delegations stress that the rapid recovery experienced by the countries of the region was based on sound macroeconomic fundamentals, as well as a set of counter cyclical public policies aimed at safeguarding employment and at the sustainability of enterprises. Many of these policies were implemented through social dialogue.

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3. We note that the Report reflects the progress and deficit in the implementation of the Decent Work Agenda for the Hemisphere, providing a social and political overview that is necessarily framed by reference to the financial and economic crisis which has led to an employment crisis, with a global impact since 2008. Challenges remain with regard to the consolidation of democracy, the reduction of inequalities, and the strengthening of rights and of mechanisms of participation.

4. During the Meeting, it was reaffirmed that freedom of association and the effective recognition of the right to collective bargaining are crucial to achieving the decent work goals set out in the Agenda for the Hemisphere. These rights have been universally recognized as fundamental rights, and are enshrined in ILO Conventions Nos 87 and 98. It was likewise recalled at the Meeting that the right to freedom of association applied equally to employers and to workers.

5. We stress that the Dialogues held highlighted the fact that severe inequality persists in the region, despite the economic progress made. Moreover, it was underscored that economic progress alone was not sufficient to reduce inequality and to create quality jobs. There was thus a need for private and public policies that placed employment at the centre of development strategies.

6. The Dialogues also drew attention to the fact that social protection has been a decisive policy in tackling the crisis and not an adjustment variable as in previous crises. In the current decade, recovery of the real minimum wage had largely been achieved in the region, though at levels that were still insufficient. South-South cooperation over the period constituted a demonstration of solidarity between developing countries, as well as a strategy to achieve the goals of the Decent Work Agenda for the Hemisphere.

7. We consider that the Decent Work Agenda for the Hemisphere should be revised and updated, in the light of the fact that, since the last Regional Meeting, the ILO has adopted the tripartite resolution concerning the promotion of sustainable enterprises (June 2007), the ILO Declaration on Social Justice for a Fair Globalization (June 2008) and the Global Jobs Pact (June 2009), as well as of the progress and challenges presented in the Reports of the ILO Director-General of the International Labour Office to the 17th American Regional Meeting.

8. We further recognize that the areas calling for progress and in-depth review through more effective social dialogue include the following:

- the creation of new decent and productive work opportunities through the promotion and development of sustainable enterprises;
- enhanced respect for freedom of association and collective bargaining;
- promotion of ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102);
- the promotion of economic competitiveness together with social cohesion, preserving and respecting the fundamental rights at work enshrined in the Declaration of 1998; and
- the strengthening of labour market institutions.

9. In the light of the above, we call upon the Office for its support through technical cooperation to develop regional programmes relating to:

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- strengthening the campaign for respect for freedom of association and the promotion of collective bargaining;
  - promoting an environment conducive to the development of sustainable enterprise; and
  - strengthening ministries of labour to meet the new challenges of the world of work.

10. The representatives of governments and of the employers' and workers' organizations participating in the 17th American Regional Meeting of the International Labour Organization extend their gratitude to the Government of Chile for hosting the Meeting and for the hospitality offered to those attending it. This, together with the efficient organization of the Meeting, contributed to its success.





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## Labour Inspection

### 1. *Resolution concerning labour inspection in agriculture, 1946*

Whereas in many of the American States Members of the International Labour Organisation there are social and labour laws applicable to agricultural and stock-raising activities;

Whereas both employers and workers are interested in the extension of such legislation and its more effective application,

The Third Conference of the American States Members of the International Labour Organisation recommends that, on the basis of standards approved by the Organisation, Governments should consider the extension of their systems of labour inspection to cover agricultural and stock-raising activities.

### 2. *Resolution concerning labour inspection, 1946*

Whereas it is vital to ensure the enforcement of the laws and regulations for the protection of employed persons;

Whereas the effectiveness of such legislation is wholly dependent upon the adequacy of its administration and enforcement;

Whereas universal experience has shown that enforcement can be ensured only through the agency of a system of labour inspection possessing ample authority, suitably directed and adequately staffed with competent persons who visit workplaces at sufficiently frequent intervals to ensure that the provisions, of the labour legislation in force are properly understood by the employers and workpeople concerned, and are in fact being effectively applied;

Whereas a review of existing labour inspection conditions in the American countries reveals that employers and workers are frequently justified in complaining of the incompetence and inexpertness of labour inspectors, and that the enforcement of labour legislation frequently lags far behind the enactment of such legislation;

Whereas Article 41 of the Constitution of the International Labour Organisation declares that each State should make provision for a system of inspection in order to ensure the enforcement of the laws and regulations for the protection of the employed;

Whereas mutual confidence in respect of the effective application of ratified international labour Conventions can only be assured if each ratifying country is convinced that the provisions of the national measures by which such Conventions are implemented are strictly enforced by other ratifying countries,

The Third Conference of the American States Members of the International Labour Organisation resolves as follows:

#### I. NATURE AND SCOPE OF THE INSPECTOR'S DUTIES

1. It should be the primary duty of a labour inspectorate to ensure, through personal visits to the workplaces, that the provisions of laws, regulations and contracts of employment in force at any given moment relating to the conditions of work and the protection of the workers while engaged in their work are properly understood and applied by the employers and workpeople concerned, and, where necessary, to supply technical

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information to the employers and workpeople concerning the most appropriate and effective means of complying with such laws and regulations.

2. Without prejudice to the performance of the advisory educational and technical functions specified in the preceding paragraph, the individual inspector should possess sufficient authority and should not hesitate to take whatever proceedings may be necessary to ensure respect for the laws, regulations and contracts of employment.

3. Any accessory tasks which may, in view of their special knowledge, experience and competence, be entrusted to the labour inspectors should not be of such a nature or extent as to interfere with the efficient carrying out of their due quota of inspection visits; and in the assigning of any such accessory tasks to members of the inspection staff due account should be taken of any local conditions which may make the carrying out of the latter duties particularly difficult or arduous.

4. Labour inspectors should be excluded by law from performing conciliation and arbitration functions.

## II. ADMINISTRATIVE ORGANISATION

5. In each State, province or country as the case may be, labour inspection should be placed under the direction of a single central authority.

6. District inspectors should be convened to periodical conferences at headquarters not less than once a year in order to discuss their technical and administrative problems among themselves and with members of the headquarters staff.

7. In a federal country, where labour inspection lies partly or wholly within the competence of State or provincial authorities, the federal Government should take all appropriate steps to encourage the maintenance of uniform standards of law enforcement. The convening of national conferences of labour inspectors, the organisation of courses of technical instruction, and the preparation and distribution by the federal Government of manuals of inspection practice and model forms, may be regarded as appropriate means towards the attainment of this end.

8. The work of inspection should be subdivided in such a way that a single inspector is not expected to perform too great a variety of technical tasks. For example, a single inspector should not be called upon to perform tasks requiring a high degree of technical competence in regard to both industrial health and safety on the one hand and bookkeeping and accountancy on the other.

9. The competent administrative authority should provide the inspection service with adequately equipped offices; as far as possible, appropriate clerical assistance; all necessary office and postal expenses; and all costs involved in travelling by inspectors to whatever extent may be necessary in order that they may visit and inspect, at reasonably frequent intervals, all the workplaces in the districts assigned to them.

10. Certain measures should be undertaken to enlarge the interest and enlist the increased support of organised employers and workers, as well as the general public, for the organisation, maintenance and financing by the State of an efficient, labour inspection system. Subject to appropriate discretionary safeguards, these measures might include dissemination of more general public information concerning working conditions and remedial measures taken or needed; and, in addition to the performance of ordinary inspection duties, the demonstration by inspection officials to the public of the effectiveness of their services.

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### III. THE INSPECTING STAFF

11. In the selection of candidates for posts as labour inspectors, importance should be attached to attracting to the service persons possessing 'practical and technical knowledge of the problems with which an inspector is faced in the course of his inspection visits, as well as the necessary minimum of general education.

12. Competitive examinations may be regarded as an appropriate means of ensuring impartiality in the choice of recruits to an inspection service; but, in the organisation of such competitive examinations, a system of weighting should be adopted which will take due account of the importance to be attached both to the technical and practical experience of candidates and to their qualities of personality.

13. Appropriate steps should be taken to secure the training of new inspectors after their entry into the service to the duties which they will be called upon to perform, and their initiation in the performance of their duties under the adequate training of a senior inspector.

14. With a view to facilitating the exchange of knowledge and experience on the international plane, and thus contributing to the efficiency of national inspection services, arrangements should be encouraged for enabling the inspectors of the various countries to visit other countries and to be attached for a suitable period to the inspection services of such countries, in order that they may obtain a real insight into the methods of organisation and work. It is also desirable, that full advantage should be taken of such facilities as may be available through the International Labour Organisation. In particular, the practice already adopted by the International Labour Office of inviting labour inspectors from various States Members to spend a probationary period at the Office is welcomed, and the hope is expressed that this practice may be maintained and extended. It is desirable that every advantage should be taken of the possibilities offered by the agenda of each successive session of the International Labour Conference to send members of the inspection service to these sessions as members of the national delegations. Further, it is noted that the International Labour Office has initiated the holding of a series of regional conferences of representatives of labour inspection services. The Conference welcomes this step and hopes that such conferences will be held at sufficiently frequent intervals in American centres.

15. In order to ensure the competence and independence of the members of the labour inspection staff, the following principles are recommended:

- (a) Candidates for posts in the inspection service should be selected on the basis of their personal competence, to the exclusion of any political or part)-considerations.
- (b) With due regard for existing conditions in respect of the organisation of the national public service, members of the inspection service should enjoy the assurance of a permanent career in the service, with adequate facilities for promotion and the right to a pension on retirement, provided that their records of conduct and efficiency are satisfactory.
- (c) In view of the delicate and difficult nature of a labour inspector's duties salaries should be fixed at a level which will attract suitable candidates' The level of salaries should be such that, in combination with the prospects of secure employment to which allusion has been made in the preceding subparagraph, they will offer an incentive equivalent to those that apply in the case of members of the liberal professions and holders of managerial posts in commerce and industry in each country.

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16. The Conference welcomes the progress that has been made in various countries in the employment of women inspectors. It urges that women inspectors should enjoy equivalent conditions in regard to pay and prospects of promotion as compared with their male colleagues.

#### IV. CO-OPERATION WITH EMPLOYERS AND WORKERS

17. In addition to the qualities of tact, discretion, impartiality and moral uprightness which every inspector should display in his dealings with all concerned, an inspector should also conform to the following rules and standards in order to capture the confidence of employers and workers respectively:

- (a) His technical competence should be such that he will be in a position to offer really useful technical advice and information to most employers in regard to the most suitable methods of protecting the health and safety of the workers, maintaining their morale, and thus improving their economic efficiency; and he should possess and display firmness and moral authority sufficient to convince the employer that his opinion on such technical matters is worthy of the closest attention. In no circumstances should he accept a present or a service from any employer, worker or organisation, except in so far as they may be required by law, *e.g.*, transport facilities or accommodation in outlying centres.
- (b) In order to win the confidence of the workers, the inspector should give serious attention to all complaints of violations of the laws, regulations and contracts of employment in respect of which he is competent, and investigate all cases of contraventions that may be reported to him. He should treat all such reports and complaints as absolutely confidential.

18. Every inspector should endeavour to obtain the co-operation of employers and workers, of their accredited organisations, and of joint bodies, such as works safety committees, in ensuring proper enforcement of the laws and regulations in regard to which he is competent, provided that he should not delegate any part of his official authority to such persons or bodies, and that their activities should in no way infringe upon his official responsibilities.

#### V. FREQUENCY AND THOROUGHNESS OF INSPECTION

19. The Conference calls attention to the fact that no inspection service can be considered to be performing its proper function unless the workplaces put under its supervision are in fact visited and thoroughly inspected at sufficiently frequent intervals. It subscribes to the standard laid down in paragraph 18 of the Labour Inspection Recommendation, 1923, namely, that, in principle, "every establishment should be by an inspector for the purposes of general inspection not less frequently than once per year, in addition to any special visits that may be made for the purpose of investigating a particular complaint or for other purposes". In so far as it may be impossible to maintain such a standard in respect of outlying workplaces in sparsely inhabited areas, the Conference recommends that steps be taken to ensure that such workplaces are competently inspected by at least one Government authority (*e. g.*, the mines inspectorate or the department of public health) with due frequency, and that arrangements be made between the labour inspection service and that authority in order to ensure that, so far as possible, advantage is taken of such inspection visits to verify the enforcement of labour laws and regulations and to investigate complaints in that connection.

#### VI. REPORTS ON INSPECTION ACTIVITIES

20. The Conference draws attention to the provisions of paragraph 21 of the Labour Inspection Recommendation, 1923 to the effect that the competent central authority

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“should publish an annual report as soon as possible, and in any case within one year after the end of the year to which it relates, containing a general survey of the information furnished by the inspectors”; and to the provisions of paragraph 23 of the said Recommendation concerning the information that should be supplied in such published reports. It suggests that all concerned should bear in mind the indispensability of such publicly available information both for the purpose of ensuring the effectiveness of protective labour legislation and in order to provide a basis for confidence, both at home and abroad, in the effective enforcement of the national legislation.

### **3. *Resolution concerning the Application and Supervision of Labour Legislation in Agriculture, 5<sup>th</sup> Conference of the American States Members, Petropolis, 1952***<sup>46</sup>

The Fifth Conference of American States Members of the International Labour Organisation, having met at Petropolis from 17 to 29 April 1952,

Considering that the International Labour Organisation has from the outset concerned itself with agricultural questions and that its general and regional conferences have attached particular importance to the consideration of items related to the conditions of life and work of the agricultural workers;

Considering that, in the field of international action, the International Labour Conference has already adopted a number of Conventions and Recommendations on such matters as age of admission of children to employment in agriculture, rights of association and combination of agricultural workers, workmen's compensation, sickness, old age, invalidity and survivors' insurance in agriculture, and minimum wage-fixing machinery in agriculture, and that the Conference is called upon to consider at its forthcoming session the adoption of international regulations in respect of holidays with pay in agriculture;

Considering that the Permanent Agricultural Committee, the advisory body responsible for facilitating the decisions of the Governing Body and developing the work of the Conference, has devoted attention to broad and particular aspects of agricultural labour questions and to matters relating to the security of employment and the social and economic welfare of the agricultural working populations and has made recommendations on these subjects;

Considering that, in the field of regional action, the Conferences of American States Members of the International Labour Organisation, and in particular the Fourth Conference held in Montevideo in 1949, have dealt with a variety of matters, including employment and manpower, vocational training in agriculture, regulation of work in agriculture, wages, protection of children and young workers, employment of women, maternity protection, social security and labour inspection in agriculture;

Considering that in many American States Members of the International Labour Organisation there exists social legislation regulating conditions of work in agriculture;

Recognising that the objectives of legislation on these subjects cannot be achieved unless complementary action is taken to raise the standard of living of the agricultural population in general by measures including the improvement of agricultural production and income, and the promotion of adequate social and public services for the countryside;

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<sup>46</sup> Adopted on 29 April 1952.

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Considering, nevertheless, that the effective enforcement of labour legislation depends to a considerable degree on the existence of occupational organisations and the good functioning of a system of supervision;

Taking account, moreover, of the resolutions concerning labour inspection adopted by the Third and Fourth Conferences of American States Members of the International Labour Organisation held respectively in Mexico in April 1946, and in Montevideo in April-May 1949;

Adopts this twenty-ninth day of April 1952 the following resolution:

## I. DEVELOPMENT AND ENFORCEMENT OF LABOUR LEGISLATION IN AGRICULTURE

1. In the interests of social justice and of the welfare of the whole community, the progressive extension of social legislation to agriculture should be achieved as rapidly as possible so as to afford to the agricultural workers protection and working conditions similar to those enjoyed by urban workers, due account being taken of the particular circumstances of agricultural work.

2. Action in this field should in particular tend to the enactment of measures with a view to extending social security to agriculture, ensuring the enforcement of contracts of employment in accordance with the national legislation, organising employment services and vocational training, organising social services, improving and regulating conditions of work, protecting the right of association and combination of the agricultural workers, and setting up of labour courts or of machinery for conciliation and arbitration of labour disputes in agriculture, etc.

3. Measures for the satisfactory enforcement of labour legislation should have an educational purpose, aiming especially, on the basis of a full understanding of the technical problems of agriculture, at providing guidance to employers and workers.

4. Governments should take all appropriate steps to enable employers and workers to be fully informed of the legislative provisions which are applicable to them. All possible means should be employed to ensure such publicity, including the press, the placing of posters in public places, in information centres, etc.

5. The greatest efforts should be made to supplement such publicity by means of an educational programme reaching young people and adults through the schools, by means of publications in easily understood terms, through conferences, meetings, and by means of exhibitions organised jointly by the competent administrative services, employers and workers. In this way agricultural workers could be made familiar not only with social legislation but also with certain modern methods and with the principles of health and safety.

6. Where appropriate, the enforcement of legislation should be encouraged to the greatest extent possible by the extension or the introduction of model employment contracts, either individual or collective; by the creation of regional or local joint labour boards; by representation of employers and workers on various committees charged with the regulation of wages; and by the participation of the interested parties in the management of social security funds, etc.

## II. INSPECTION

7. Measures for the enforcement of labour legislation should be completed, in so far as possible, by a system of labour inspection. This goal might be attained at first by extending to agriculture such labour inspection systems as already exist in the different

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countries. It would nevertheless be desirable to promote the gradual constitution of a corps of specialised inspectors for agriculture.

8. Where it would not be practicable to establish an effective labour inspection system because of special difficulties arising out of the large areas to be covered, the nature and dispersion of the undertakings, the excessively scattered pattern of settlement, etc., it would at least be desirable to take the necessary steps to create service centres located in convenient places and accessible to the greatest number of employers and workers and capable of guiding and assisting them in the implementation of labour legislation.

9. Where a labour inspection system exists, full consideration should be given to the possibility of co-ordinating its activities with those of other administrative authorities whose social work may be of great assistance. For example, the labour inspectorate might usefully co-operate with education authorities, social welfare officers, health inspectors, as well as with the judicial authorities.

### III. QUALIFICATIONS AND DUTIES OF LABOUR INSPECTORS

10. In order that labour inspectors may best fulfil their duties, they should be recruited on the basis of their qualifications for the functions which they are to assume. In addition to adequate training, they should possess a certain amount of knowledge of the economic and technical aspects of agriculture and be familiar with working and living conditions of rural people.

11. The inspection staff should be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of external influences.

12. The labour inspectorate should be placed under the supervision and control of the appropriate authority. In the case of a Federal State, the appropriate authority may be an authority of the Federation or an authority of each of the federated units, but the Federal Government should take all appropriate steps to encourage the establishment of adequate standards of enforcement.

13. The essential functions of labour inspectors should be as follows:

- (a) to supervise the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work;
- (b) to supply information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

14. The inspectors should have the powers necessary for the accomplishment of their duties, and, specifically, should be allowed to enter places of work freely, due account being taken of national laws on the inviolability of the home, to take the requisite legal preventive action to protect the workers and safeguard their health, and to take all necessary legal steps to apply the penalties prescribed by law for any breach of labour legislation.

15. In order that inspectors may carry out their functions readily, they should be supplied at all times with individual means of transport, in cases where suitable public facilities do not exist.



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16. Provision should be made for penalties for violations of the legal provisions and for obstructing labour inspectors in the performance of their duties.

#### IV. SPECIAL PROVISIONS

17. Special attention should be devoted to the development of inspection services charged with the protection of children and young workers. These services should cooperate with employment services, vocational training and educational centres, apprenticeship programmes and, in general, with all public or private organisations concerned with the welfare of youth.

They should exercise particular supervision over the conditions of work and of employment of apprentices.

#### V. CO-OPERATION OF EMPLOYEES AND WORKERS

18. To complete the work of labour inspection, Governments should, to the fullest extent possible, encourage the co-operation of workers and employers in determining and implementing social standards and the creation, where appropriate, of joint boards, on a local, regional or national basis.

#### VI. TECHNICAL ASSISTANCE

19. In order to facilitate the development of labour inspection services in agriculture, agreements might be entered into between those countries not having well-developed inspection services and those which, benefiting from a long experience, have already constituted a corps of specialised inspectors for agriculture.

20. Finally, full use should be made of the technical assistance which the International Labour Organisation is able to furnish in connection with the establishment of inspection services and the training of inspectors, as well as the setting up and administration of social services.

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## Arab Regional Conferences and Meetings

### Labour Administration

#### 1. ***Recommendations of the Regional Conference on Social Dialogue in the Arab States, Rabat, 2010***

Upon the request of the Arab Labour Organization and the International Labour Organization, and in cooperation with the Ministry of Employment and Vocational Training in the Kingdom of Morocco, a regional conference on social dialogue in Arab countries was convened in Rabat, Morocco from 14-16 December 2010.

Government, employer and worker representatives from all Arab countries participated in the three-day event, which explored Arab, Brazilian, Spanish and South African experiences of social dialogue. Discussions centred on the best means to promote and institutionalize social dialogue in support of sustainable development efforts towards improved social justice and peace.

Participants expressed appreciation of the efforts exerted in organizing the conference and stressed its significance.

The following recommendations were announced by the Conference:

1. Call for Arab countries to:
  - a. Provide a general climate that is conducive to serious and effective social dialogue through representative and independent employers' and workers' organizations, and through the respect of Arab and International Labour Standards, particularly those relevant to rights at work, freedom of association and social dialogue.
  - b. Develop new – and support and expand existing – legislative and institutional frameworks for social dialogue, thereby enabling social partners to resolve work-related issues and facilitating their participation in policymaking for social and economic development.
  - c. Support social dialogue at the level of the enterprise, the productive enterprise or the economic sector through equitable regulatory frameworks for workers and employers.
  - d. Consider social dialogue a priority in all – bilateral or multilateral – technical cooperation programmes.
  - e. Organize national multimedia campaigns – in cooperation with national educational and training regimes – that are designed to promote a culture of dialogue and to disseminate the contents of Arab and international conventions on human rights, freedom of association and fundamental rights at work.
2. Call for Decent Work Country Programmes to include:
  - a. An assessment of the content and effectiveness of social dialogue in Arab states, and the development of country-specific programmes with tailored indicators for monitoring progress and achievements.

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- b. An evaluation of employment in the informal sector, and the development of programmes to address it.
  - c. Provisions for the improvement and development of social security in a manner compatible with the basic needs of workers and their families, as well ensuring a minimum standard of social security accessible to all, especially the unemployed, persons with disabilities, and the informal sector.
  - d. Identifying the needs of social partners (labour administration and inspection, trade unions and employers), and developing specific programmes aimed at capacity-building for effective participation in sustainable social dialogue, that involves consultation, collective bargaining, and conflict resolution and avoidance at work.
3. Call for the ALO and the ILO to strive to establish networks of Arab experts to build the capacities of social partners and to support the following areas of technical cooperation:
    - a. Labour legislation.
    - b. Social Dialogue.
    - c. Social Security.
    - d. Employment.

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## Labour Inspection

### 1. *Arab Employment Forum: A Jobs Pact for Recovery and Growth, Beirut, 2009*

#### ARAB ACTION AGENDA FOR EMPLOYMENT

##### I. INTRODUCTION

1. We the delegates of governments, employers' and workers' organizations from Arab countries participated in the Arab Employment Forum organized by the Arab Labour Organization (ALO) and the International Labour Organization (ILO) in Beirut, Lebanon from 19 to 21 October 2009. The objective of the Forum was to launch an agenda for action based on the ILO Global Jobs Pact adopted in June 2009 by the International Labour Conference, and the resolutions of the Arab Economic, Development and Social Summit, January 2009 and on the lessons drawn from the global financial and economic crisis on employment and labour markets in the region. We wish to thank the Government of Lebanon for hosting the Forum, for its hospitality and efficient provision of facilities, which contributed to the success of the Forum.

2. We thank the Director-General of the ALO and the Director-General of the ILO for convening the Forum at such a pivotal time. While we reiterate the relevance of the Global Jobs Pact for the region as a comprehensive portfolio of tried and tested policy measures addressing the social and employment impact of the global financial and economic crisis, we recognize that tripartite dialogue is the most effective instrument to deal with the crisis. We welcome the commitment and action of the ALO and the ILO to support national and regional efforts to minimize the effects of the global crisis on people and to restore growth and jobs while building a more balanced, stable and prosperous future for the region.

3. We recall our commitments as stated in the conclusions of the ILO's 14<sup>th</sup> Asian Regional Meeting (Busan, Korea 2006) launching the Asian Decent Work Decade up to 2015 and of the ILO's 11<sup>th</sup> African Regional Meeting (Addis Ababa, 2007) launching the African Decent Work Decade up to 2015, as well as our commitments emanating from the Doha Declaration that was issued by the first Arab Forum for Development and Employment (Doha, 2008), and the Arab Decade for Employment (2010 – 2020). We also recall the commitments of the Arab leaders made at the Arab Economic, Development and Social Summit (Kuwait, 2009) on employment and unemployment.

4. We representatives of governments, employers' and workers' organizations examined a series of studies and thematic papers prepared by the ALO and ILO and discussed decent work strategies for recovery from the crisis as well as advancing an agenda for sustainable and equitable growth and considered that the hasty financial markets liberalization policies and the lack of control and correction mechanisms contributed to the expansion of monopoly and speculation as well as the expansion of financial activity at the expense of the real economy, which led to the aggravation of social disparities within and among states including the increase in the number of poor people and the expansion of the informal economy. We also recognize the diversity of the Arab region and the need for specific approaches for national priorities that converge with a regional strategy to bolster social cohesion and maximize the positive effect of stimulus measures and other crisis-response initiatives that target enterprises, jobs and incomes.

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5. We stress the need for integrated and coordinated policy responses to reverse the downward spiral in economic activity. We recognize the inability of the adopted development patterns to go beyond the chronic structural problems and to achieve the objectives of balanced and sustainable development and good governance, hence the need for a new development paradigm that places decent work as a central objective of development strategies, and reorients policies to serve the needs of the real economy. This Agenda for Action addresses the response to mitigate the immediate impact of the crisis on labour markets. This agenda is also based on the belief that crises create opportunities. In this regard, the Agenda supports the rethinking of development strategies. We therefore highlight the importance of regional cooperation and integration for a sustainable and fair recovery that would generate decent work opportunities throughout the region towards the realisation of economic, social and environmental sustainability.

## II. IMPACT OF THE CRISIS ON EMPLOYMENT AND LABOUR MARKETS IN ARAB COUNTRIES

6. The global financial and economic crisis has affected countries in the region to varying degrees and through different transmission channels. The impact on employment and labour markets is multi-faceted and has exacerbated pre-existing levels of unemployment, underemployment, low productivity and limited access to decent work opportunities and low social protection. It should be noted that the policies to confront the crisis require the expansion of national dialogue and the involvement of different social partners in the design, implementation and monitoring of these policies.

7. While we recognize that there may be a considerable time lag between the resumption of economic growth and the recovery in employment, this Agenda for Action supports concerted national and regional efforts to minimize this lag. The Forum thus constitutes a significant step in the development of actions for placing the creation of decent work as an explicit and central objective of economic and social policies. These should be introduced not only to counter the effects of the crisis but also to put the Arab economies on a sustainable social and economic development path at national and Arab levels.

8. Restoring growth, increasing its employment content and strengthening internal demand and making them less volatile in the future are essential for the successful pursuit of the Decent Work Agenda. As we work towards better functioning labour markets, special emphasis must be given to promote gender equality and integration of youth in labour markets.

## III. MAIN ISSUES AND PRIORITIES FOR NATIONAL AND ARAB POLICIES

The participants in the forum discussed a number of topics in parallel sessions and here below are the recommendations:

### *A. Decent employment, sustainable growth and recovery*

9. The session examined the impact of the economic and financial crisis that has compounded the pre-existing structural challenges to employment promotion in the Arab region. It recognized the multi-dimensional nature of the policy measures and the need for a comprehensive approach based on tripartite dialogue. Several country experiences were presented.

Priorities for action:

- i) Establish economic policies and investment plans that take into consideration the urgent need to reduce unemployment and increase job opportunities particularly

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for new entrants to labour markets as well as reiterating the necessity of orienting recovery programmes towards domains that support increased labour-intensive and sustainable growth strategies;

- ii) Develop strategies, plans and policies at national and sectoral levels to explicitly target promotion of employment;
- iii) Reiterate the responsibility of the state and public policy to create an enabling and stable macroeconomic environment that explicitly favours investment and job creation;
- iv) Enhance diagnosis of the informal economy and its characteristics in the Arab region and promote tripartite dialogue on measures and good practices to transit to formality;
- v) Provide support services for active labour market programs and to small and medium enterprises on the basis of linking incentives to productivity and working conditions;
- vi) Develop education and training systems and promote the capacity of the Arab economic texture to integrate capacities and skills according to the changing needs of labour markets;
- vii) Develop the investment environment of the private sector and eliminate all the obstacles facing it to create more and better jobs
- viii) Support and promote the management capacity of the public sector to help in creating more and better jobs;
- ix) Strengthen the capacity of labour ministries to promote and monitor the integration of employment issues in national economic policies and development frameworks;
- x) Emphasis on improving the quality, availability and transparency of labour market statistics;
- xi) Promote tripartite dialogue in developing, implementing and monitoring national employment strategies;
- xii) Create a regional observatory of labour markets in the Arab region to assess the impact of economic policies in terms of employment.

#### *B. Improving management of labour migration, employment and development*

10. The summary of this session will be forwarded to the technical follow up committee.

#### *C. Building adequate social protection systems and protecting people*

11. This Forum focused on ways to extend social protection coverage in the region particularly with respect to pensions, unemployment protection, maternity protection and the establishment of a basic social protection floor. Participants recognized the central importance of social security systems particularly in times of crisis.

Priorities for action:

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- i) Extend social protection coverage in Arab states and establish a basic social protection floor as a right guaranteed by the State that includes the adoption and support of an unemployment benefit system;
  - ii) Ratify the relevant international and Arab labour standards;
  - iii) Ensure equitable and sustainable financing of social security;
  - iv) Strengthen the governance and administration of social security with participation of the social partners;
  - v) Raise awareness about the importance of social security with a view to encourage wider participation and promote commitment.

#### *D. Strengthening international labour standards and workers rights*

12. The Forum examined the role of international and Arab labour standards and the rights of workers in the context of the current crisis. The participants highlighted the key importance of the ILO Declaration on Fundamental Principles and Rights at Work. The same fundamental principles and rights at work are reaffirmed by the Global Jobs Pact as critical for human dignity and for recovery and development. The forum highlighted the following priorities:

##### Priorities for action:

- i) Reaffirm the importance of promoting freedom of association and the right to organise by development of a conducive legal environment for representative employers' and workers' organizations according to ILO conventions 87 and 98 and the Arab convention number 8;
- ii) Develop mechanisms for collective bargaining in Arab states and improve the mechanisms in place through promoting the capacity of the employers' and workers' organizations working in this domain;
- iii) Raise awareness and draft national action plans to prevent practices that are in conflict with international and Arab labour standards and that might lead to forced labour and human trafficking;
- iv) Promote policies and programmes of non-discrimination in employment and occupation, including gender-based discrimination;
- v) Combat child labour, in particular the immediate abolition of the worst forms of child labour;
- vi) Promote the ratification and implementation of international and Arab labour standards;
- vii) Organize activities to promote the Declaration on Fundamental Principles and Rights at Work including capacity building for the tripartite constituents in the Arab countries;
- viii) Mainstream the Declaration on Fundamental Principles and Rights at Work in the activities implemented by ALO and ILO for the member states in the region;
- ix) Develop labour inspection systems and enhance their ability to monitor compliance with these standards.

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### *E. Social dialogue and tripartism for crisis analysis and response*

13. The participants agreed on the importance of social dialogue as a means and effective tool to confront the global economic crisis, focusing on the conditions and mechanisms for dialogue and the need to institutionalize it. There was consensus that one of the pre-requisites for successful social dialogue is the existence of independent, democratic and transparent employers' and workers' organizations. It was also noted that social dialogue is a means not only during times of crises and conflict, but also during times of prosperity and economic and social stability in any country. A number of social dialogue experiences and success stories were discussed, emphasizing those experiences that successfully promoted increased productivity, stability and sustainable development. The participants also supported a document signed by representatives of Arab employers and workers in the region, which calls for the establishment of a bipartite committee at the regional level that should meet regularly each year, to discuss trends and challenges in the Arab region. To this end, they officially called on both the ALO and ILO to extend technical and financial support to this committee with the request to Governments to join it and make it a tripartite entity.

Priorities for action:

- i) Promote a culture of social dialogue at the national and regional levels;
- ii) Encourage the establishment of social and economic councils in some Arab countries and encourage their proliferation in the rest of the region, in addition to calling for a revitalization of the Arab Economic and Social Council as the regional tripartite framework for social partners on issues related to development and economic and social rights;
- iii) Encourage Governments to ratify and implement ALO and ILO agreements and treaties related to social dialogue;
- iv) Request governments to support and join the bipartite committee that employers' and workers' representatives have agreed on during this Forum;
- v) Request the ALO and ILO to mobilize resources and provide technical support to the above-mentioned Committee;
- vi) Confirm that effective social dialogue is linked to all public freedoms especially to freedom of expression;
- vii) Create incentives and channels to encourage, institutionalise and vitalise social dialogue mechanisms in close cooperation with the social partners.

### *F. Promotion of sustainable enterprises for job creation and retention*

14. The Forum affirms its commitment to monitor policies and strategies to generate decent and productive jobs through the promotion of micro, small and medium-sized enterprises in the Arab region. The discussion addressed the challenges impeding SME development in the Arab countries, while outlining specific policy responses required to face the crisis and entry points for reform.

Priorities for action:

- i) Confirm the relevance of the ILO Declaration of 2007 on sustainable enterprises, particularly taking into account their diversity and the protection of existing jobs in them, especially at times of crisis while strengthening social protection for



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workers in these enterprises. The Global Jobs Pact that was adopted by the ILO in its last conference in 2009 was emphasized during the discussion;

- ii) Concentrate on the development of the micro, small and medium enterprises sector in the framework of national economic plans and adopt a comprehensive promotion of all productive sectors, especially industrial ones;
- iii) Foster a conducive business environment to facilitate enterprise start-up and the expansion of already existing sustainable micro, small and medium enterprises and cooperatives in the formal economy. This requires a transparent framework and a modern vision of the role of enterprises and their responsibilities towards shareholders, employees, and societal environment;
- iv) Promote the development of an entrepreneurship culture with particular attention on entrepreneurial traits and skills to empower youth, women and other sectors of society to choose self-employment as a career option;
- v) Adopt responsible and sustainable enterprise level practices to improve the quality of jobs, achieve decent work (training and re-training of workers, occupational safety and health, social dialogue, remuneration and benefits, corporate social responsibility and international labour standards) and promote the concept of corporate social responsibility based on ALO and ILO principles;
- vi) Support sustainable SME and cooperative development programs applying environmentally friendly measures and provide social security for workers;
- vii) Build institutional capacity for the provision of needs-based affordable financial and business development services that respond to the needs of entrepreneurs;
- viii) Promote coordination and cooperation between stakeholders among governments, employers' and workers' organizations;
- ix) In response to the global economic and financial crisis, governments are requested to cooperate with the private sector in the design and implementation of programmes that protect sources of job creation through:
  - a. Provision of appropriate financial schemes;
  - b. Support and development of local markets and internal demand;
  - c. Training and re-training of workers;
  - d. Promote an economic environment that can absorb new labour entrants and supports sustainable enterprises.

#### IV. REGIONAL INITIATIVES AND PARTNERSHIPS

15. Building upon regional cooperation frameworks, we recognize the need to institutionalise mechanisms in order to:

- i) Establish initiatives on the basis of partnership between Arab countries on a regional or sub-regional level which will help in achieving economic integration so as to enhance the potential of job creation and the reduction of unemployment;
- ii) Emphasize that these initiatives will be based on respect for the fundamental social rights and aim to adhere to the principles of both the ALO and ILO and fundamental labour standards;

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- iii) To ensure the effectiveness of these partnerships and the successful achievement of their objectives, issues related to human rights, equality and the equitable distribution of wealth must be placed at the top of the partnership agenda;
  - iv) Invite other regional and international organizations, including the League of Arab States, the UN Economic and Social Commissions for Western Asia and Africa (ESCWA and ECA), ASEAN, the Union for the Mediterranean, the African Development Bank and the Islamic Development Bank, the UN system, Bretton Woods Institutions and other specialised agencies of the United Nations, to support the implementation of this Agenda for Action.

#### V. ILO AND ALO SUPPORT FOR THE AGENDA FOR ACTION

16. The Forum recognizes and welcomes the complementary collaboration between the ALO and the ILO towards realizing the goal of Decent Work in the region in line with the ILO Declaration on Social Justice for a Fair Globalization (2008), the Doha Declaration (2008) and the resolutions of the Arab Economic Summit in Kuwait (2009) as well as the Arab Decade for Employment.

17. In support of the above priorities, the Forum calls upon the ALO and ILO to continue to work with governments and the social partners in implementing this Agenda for Action and for including follow-up initiatives in Decent Work Country Programmes, within the available means. We also recognize the need for mobilizing additional resources and encourage joint advocacy in support of this Arab Action Agenda for Employment.

18. In order to implement this agenda, the ALO and ILO should intensify collaborative efforts through:

- i) Monitoring statistical information and evidence-based policy analysis on the employment, labour and social impact of the crisis in the Arab region;
- ii) Undertaking measures to respond to the crisis and share knowledge and good practices;
- iii) Adopt targeted activities aiming to promote the standards relevant to Arab and international labour conventions in the face of the crisis;
- iv) Promoting the principle of social dialogue and monitoring its outcomes, reporting regularly on progress and the participation of constituents in using and developing social dialogue mechanisms in response to the crisis;
- v) Calling upon the Ministries of Interior and Labour in the Arab countries to ease and facilitate the movement of the Arab labour force within the different Arab labour markets in fulfilment of the decisions of the Kuwait Economic Summit, inline with the preservation of workers' rights ;
- vi) Based on the content of the Arab Decade for Employment and the Global Jobs Pact and considering the specificity of labour conditions and the labour market in Palestine due to the continued occupation, the Forum calls for the extension of all forms of assistance and support to enhance the efficiency of the Palestinian labour market and strengthen its operational capabilities and the success of a national employment strategy to face the scourges of poverty, unemployment and labour market challenges in light of the implications of the current crisis.

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## VI.MECHANISMS FOR FOLLOW UP

19. The Forum recommends the formation of a technical tripartite committee with the support of ALO and ILO that meets periodically with a view to translating the decisions of the Forum on the ground through the development, monitoring and evaluation of operational programs for this Arab Action Agenda for Employment.

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## Asian Regional Conferences and Meetings

### Labour Administration

#### 1. ***Resolution concerning tripartite organisation and other appropriate arrangements, 1947***

The Conference requests the Governing Body to communicate the following proposals to the Governments of countries represented at the Conference and to instruct the Office, to make a study of the working of the tripartite organisation, or other appropriate arrangements, to secure co-operation between Governments and organisations of workers and employers, and submit a report for the information and consideration of the next regional conference.

1. The Governments should give consideration to the setting up in their countries of tripartite organisations, with committees to deal with special problems, consisting of representatives of Governments, employers and workers, or other appropriate arrangements—

- (a) to promote appropriate measures for—
  - (i) raising the standard of living of workers; providing them proper and fair conditions of life and work, social security, full opportunity for their economic and social welfare and social justice; ii) increasing production and output in industry.
- (b) to advise concerning measures necessary to implement decisions adopted by the International and regional Conferences, and such of the resolutions adopted by the industrial committees as are communicated to the Governments by the decisions of the Governing Body; and formulation of recommendations concerning such other questions as may fall within their competence or may be referred to them.

2. Governments should consult their respective tripartite organisations or other machinery provided for in the preceding paragraph in the matter of labour and economic policy, including legislations and its enforcement.

3. Governments should take all possible steps to provide means and facilities for the full and efficient functioning of the tripartite organisations or other appropriate arrangements in their respective countries.

4. Governments should seek to promote close co-operation between the ILO and their tripartite organisations or other arrangements by such means as may be found to be feasible and appropriate.

#### 2. ***Resolution concerning statistics, 1947***

Whereas the proper collection, analysis and interpretation of statistical data are important in the pursuit of progressive social and labour policies;

Whereas, for the co-ordination of such statistics, either on a regional or on an international basis, they must be collected and interpreted in accordance with common standards;

Whereas the compilation of labour statistics is still in its early stages and requires to be developed, as far as practicable, along well-defined and internationally accepted lines;

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Whereas the statistical techniques to be used depend largely on the stage of social and economic evolution of the countries concerned and suitable methods have to be devised to meet the requirements of Asian countries which are more or less similar; and

Whereas the conditions in Asian countries are such that a regional approach to the problem of compiling statistics on an adequate basis is likely to lead fruitful results:

The Conference requests the Governing Body to arrange, in consultation with Asian countries, for an early meeting of labour statisticians from Asian countries together with such others as the Governing Body may invite, to survey the existing organisation for the collection, analysis, interpretation and dissemination of statistical data relating to labour conditions in Asia and to submit recommendations on the following points among others:

- (a) the extent to which population censuses could be utilised for the collection of data regarding labour conditions;
- (b) the need for evolving a system of comparable standard occupational classifications which can be integrated with international classifications;
- (c) the scope, method and programme of statistical enquiries regarding the earnings, conditions of work and cost of living of the worker;
- (d) the technique to be adopted for collecting employment data in such wide fields as agriculture, unorganised industries, the distributive trades, etc., for which returns by individual undertakings may not be suitable;
- (e) the measures necessary to enable Asian countries to ratify international labour Convention (No. 63) concerning statistics of wages and hours of work, 1938, within a brief period;
- (f) the training of statistical staff for field investigations, and the compilation and interpretation of labour statistics.

### **3. *Resolution concerning Employment Service Organisation, 1950***<sup>47</sup>

Whereas policies of economic development with a view to the raising of living standards require the full utilisation of manpower;

Whereas this can be achieved through measures aimed at eliminating underemployment and at facilitating the employment and distribution of manpower according to requirements in such a manner as to safeguard the essential needs of each branch of the economy, particularly agriculture;

Whereas the application of such measures requires the existence of machinery for promoting the employment of workers in the activities and occupations lacking an adequate supply of suitable labour;

Whereas the Preparatory Asian Regional Conference of the International Labour Organisation, held at New Delhi in 1947, emphasised the need for the further development of public employment services both for securing full use of manpower resources and as a useful preliminary to the introduction of measures for the relief of unemployment,

The Asian Regional Conference of the International Labour Organisation,

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<sup>47</sup> Adopted on 26 January 1950.

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Having met at Nuwara Eliya, Ceylon,

Adopts this twenty-sixth day of January 1950 the following resolution;

#### APPLICATION OF STANDARDS SET BY INTERNATIONAL REGULATION

1. The Employment Service Convention, 1948, and the Employment Service Recommendation, 1948, the texts of which are annexed hereto, should be ratified and accepted as soon as possible.

2. Where the provisions of the Employment Service Convention, 1948, and the Employment Service Recommendation, 1948, cannot be applied in full immediately, special attention should be given as a first step to the principles set forth in paragraphs 3 to 9 below, it being understood that the responsibility of Governments to consider the above-mentioned instruments: with a view to their application in the normal way is in no way lessened/;

3. The employment service should consist of a national service of; employment offices under the direction of a national authority.

4. The system, should comprise a network of local and, where appropriate, regional offices (including mobile units or other non-fee-charging agencies, where these are necessary as an intermediate stage) sufficient in number to serve each geographical area of the country and conveniently located for employers and workers.

5. In order to promote development of the employment service, to secure unified and co-ordinated national administration, and to ensure the adoption of standardised forms and procedure, provision should be made, inter alia, for—

- (a) the issue by the headquarters of national administrative instructions;
- (b) the formulation of minimum national standards concerning the staffing and material arrangements of the employment offices;
- (c) adequate financing of the service by the Government;
- (d) periodical reports from lower to higher administrative levels;
- (e) national inspection of regional and local offices; and
- (f) periodical conferences among central, regional and local offices, including inspection staff.

6. (1) Suitable arrangements should be made through advisory committees for the co-operation of representatives of employers and workers in the organisation and operation of the employment service and in the development of employment service policy.

(2) These arrangements should provide for one or more national advisory committees and where necessary for regional and local committees.

(3) The representatives of employers and workers on these committees should be appointed in equal numbers after consultation with representative organisations of employers and workers, where such organisations exist.

7. Special arrangements for juveniles should be initiated and developed within the framework of the employment and vocational guidance services.

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8. (1) The staff of the employment service should be composed of public officials whose status and conditions of service are such that they are independent of changes of government and of improper external influences and, subject to the needs of the service, are assured of stability of employment.

(2) Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, the staff of the employment service should be recruited with sole regard to their qualifications for the performance of their duties.

(3) The means of ascertaining such qualifications should be determined by the competent authority.

(4) The staff of the employment service should be adequately trained for the performance of their duties.

9. The employment service should observe strict neutrality in the case of employment available in an establishment where there is a labour dispute affecting such employment.

10. The benefits of the employment service should be made available on the basis of absolute equality to all workers residing in a country without regard to nationality, sex, caste or creed.

11. Each Government should examine with a view to application the provisions of the Fee-Charging Employment Agencies Convention (Revised), 1949, the text of which is annexed hereto.

#### SPECIAL REGIONAL PROBLEMS

12. (1) The Conference invites the Governing Body to ask the International Labour Office, in connection with the expansion of the manpower programme of the International Labour Organisation in Asian countries, to study, with the Governments and employers' and workers' organisations concerned, the special problems of employment service development in the Asian countries, with a view to formulating, in the light of international and regional experience, principles and methods of employment service organisation capable of encouraging the further development of such services on a solid and efficient basis.

(2) In the course of this study special consideration should be given to the following problems:

- (a) recruitment of plantation labour;
- (b) recruitment of mine workers;
- (c) recruitment of seamen;
- (d) transfers of labour from one area to another;
- (e) transfers of labour from one State to another;
- (f) the role of the employment service in eliminating abuses in connection with payment by workers for the purpose of obtaining or retaining the employment;
- (g) the role of the employment service in the development of improved technical training facilities; and

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- (h) the role of the employment service in supplying basic information essential or desirable for purposes of economic planning and the implementation of full employment policies.

#### TECHNICAL ASSISTANCE

13. The Conference invites the Governing Body to authorise the International Labour Office to provide technical assistance to the Asian countries in respect of employment service organisation, and for this purpose to reconsider the desirability of extending the activities of the Asian Field Office, by means of a specialised section staffed by employment service experts, for the purpose of dealing with matters related to employment service organisation and operation.

14. (i) The Conference invites the Governing Body to authorise the International Labour Office to make arrangements for the supply and exchange of technical and other information and materials relating to employment service organisation and operation, including more particularly information concerning the practical methods to be employed for—

- (a) operating advisory committees and maintaining close co-operation with employers' and workers' organisations;
- (b) securing the co-operation of individual employers in the utilisation of the employment service through publicity, canvassing and other techniques;
- (c) making manpower surveys;
- (d) making job classifications and job analyses;
- (e) maintaining adequate records;
- (f) registering workers and selecting workers for placement;
- (g) surveying the prospects and opportunities of different industries with a view to giving information thereon to prospective entrants to the industry;
- (h) securing effective co-operation between the employment service and educational authorities and other public services;
- (i) conducting inspections of local offices;
- (j) training employment service staff;
- (k) introducing efficient office routines including clearing-house techniques;
- (l) adopting suitable office and building arrangements for employment offices.

(2) Each Government should co-operate with the International Labour Office, on request, in making information on these subjects available for the use of other Governments.

15. (1) Regional and international programmes for the technical training of employment service staff should be developed with a view to overcoming the deficiency of Asian countries in respect of qualified personnel and promoting efficiency in employment service work.



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(2) Provision should be made in the contemplated expanded technical assistance programme for the International Labour Office—

- (a) to assist countries in the Asian region, on request, in organising refresher courses for employment service staff and programmes for the training of instructors of employment service staff; and
- (b) to sponsor arrangements between Governments for enabling employment service staff to gain experience in countries with more developed employment services.

16. The Conference requests the Governing Body to instruct the International Labour Office to study further appropriate methods of international co-operation on technical problems of employment service organisation and operation with a view to contributing to the rapid development of such services in Asian countries, and to submit periodical reports to the Governing Body.

#### **4. *Observations regarding Government Services for the Improvement of Labour-Management Relations and Settlements of Disputes, 1962*<sup>48</sup>**

1. The Committee on Labour-Management Relations of the Fifth Asian Regional Conference which was set up to deal with the fourth item on its agenda -the question of government services for the improvement of labour- management relations and settlement of disputes-agreed upon certain basic conclusions to be included in a resolution covering the three technical agenda items. The Committee also agreed upon the following observations to supplement such conclusions.

##### NEED FOR ADEQUATE GOVERNMENT SERVICES

2. It is the declared policy of Asian governments to aim at the improvement of labour-management relations and, in particular, at the reduction of industrial conflict and the peaceful, orderly settlement of disputes. To speak, however, of industrial peace, good labour-management relations and labour-management co-operation as objectives of policy is one thing; how to achieve these objectives as a matter of practice is another. It is evident that satisfactory progress towards these objectives can be accelerated by adequate and effective government services being provided for the purpose.

3. Traditionally, government approaches to labour-management relations have been primarily concerned with legislation and conciliation and arbitration. However, the role of government in this field has been evolving and has significantly changed in character in more recent times. As a result of accumulated experience and fuller knowledge of the nature of labour-management relations, it is now recognised that governments can play a varied, positive role to promote constructive relations and co-operation in industry. In particular, there has been increasing emphasis on the need for government services to provide information, advice and assistance to the parties and to undertake educational and training activities.

##### GENERAL DEVELOPMENT OF SERVICES

4. In view of the importance of good labour-management relations for facilitating economic development, Asian governments should take such measures as may be appropriate to national conditions to ensure the development of effective government

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<sup>48</sup> Adopted on 6 December 1962.

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services for the improvement of labour-management relations and prevention and settlement of disputes.

Some indication of the measures which may be taken is given below.

5. Employers' and workers' organisations should, under appropriate arrangements, be consulted in regard to and associated in the development and administration of government services suitable to their needs, and where feasible should form joint and continuing advisory councils for that purpose.

6. Such services may be established as branches of the labour ministry or department or as autonomous administrative bodies, while special government or government-assisted institutions may be responsible for certain educational, training and research activities.

#### PROMOTION OF COLLECTIVE BARGAINING

7. The primary responsibility for establishing and maintaining good labour-management relations rests with the parties themselves. Where, on this basis, it is government policy to promote collective bargaining, the main responsibility for implementing such policy is usually assigned to the conciliation service. This responsibility and the functions involved should be clearly defined. The essential task of the conciliation service should be to assist in every way it can to make collective bargaining an effective and dynamic instrument of social justice and industrial democracy. It should persistently strive to assist the parties to settle their problems by themselves or through their own arrangements.

8. The conciliation service should, among its other functions-

- (a) encourage and assist in the establishment and maintenance of joint machinery or an agreed procedure for the negotiation of collective agreements and for the settlement of disputes and workers' grievances arising under the agreement; prepare model agreements concerning such machinery or procedure and provide information to facilitate the settlement of collective bargaining issues;
- (b) provide facilities for the training of members of negotiating committees and of management and trade union representatives who handle workers' grievances at the plant level;
- (c) encourage the use of bipartite or tripartite machinery for evolving voluntary codes of principles to guide the parties in the development of their relationships; and
- (d) organise conferences and seminars to promote better understanding of collective bargaining problems and issues.

#### THE CONCILIATION SERVICE AND ITS STAFF

9. Various speakers stated that the conciliation services in their countries, consisting of regularly appointed government officials, were inadequate for one reason or another. It was generally agreed that measures should be taken to strengthen and improve the governments' conciliation services-

- (a) for the performance of their functions relating to the promotion of collective bargaining, including arrangements for the voluntary settlement of disputes, as indicated above;
- (b) for providing more effective assistance in the settlement of disputes and in the avoidance of strikes, slow-downs and lockouts through voluntary action; and

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(c) for other functions concerning labour-management relations which may be assigned to them.

10. Such measures should particularly aim at the development of a permanent, specialised staff of government conciliation or industrial relations officers who can devote the whole of their time and efforts to these functions. In order to be accepted by both parties as impartial persons, conciliators should be in a position to exercise their judgment impartially, free from government or other influences. They should not, in principle, be required to perform labour inspection or other duties which would impair their usefulness as impartial conciliators and government officials.

11. They should be selected and appointed on the basis of the special personal and technical qualifications required for the work of conciliation and the other functions previously indicated. Their official status, emoluments and terms of service should be fixed with due regard to the importance of these functions and so as to attract and retain in the service the most capable men available. Newly appointed conciliators should be given training in the whole process of conciliation and refresher courses should be organised for senior conciliators.

12. Qualified and eminent persons, such as retired judges or justices, outstanding civic leaders, retired civil servants, professors of industrial relations, economists, etc., may be appointed as special conciliators on an ad hoc basis under appropriate conditions, so as to take advantage of their specialised knowledge of technical questions for the settlement of disputes and improvement of labour-management relations.

#### OTHER METHODS OF VOLUNTARY SETTLEMENT

13. There are advantages in having available, when a conciliator fails to settle a dispute, various alternative methods of assisting in the voluntary settlement of a dispute, such as the use of a conciliation board or a fact-finding body and especially voluntary arbitration. In countries where these methods are not now provided for, are only rarely applied or are in the process of being developed, the governments may consider the possibility of making available adequate facilities for their application. In the absence or failure of the machinery for settlement established by agreement, the parties should be encouraged to avail themselves of the government facilities for voluntary arbitration.

14. Governments should assist in developing a body of competent persons who can act as arbitrators or umpires, chosen by agreement of the parties concerned. Such persons may include those referred to in paragraph 12. They should assist in devising efficient, expeditious procedures.

#### COMPULSORY ARBITRATION OR ADJUDICATION AND SPECIAL PROCEDURES

15. In a number of Asian countries compulsory arbitration or adjudication is used for settling disputes generally or certain categories of disputes only. The degree to which the compulsory aspect is present in the procedures being followed may vary from country to country. It was agreed that where disputes can be submitted to this method of settlement, it was not so much the type of machinery that was important as the spirit in which it was being applied and its efficiency. The governments concerned should ensure that the legislation on which the compulsory arbitration system is based should be so designed as to minimise the possibility of expensive and long-drawn-out litigation; and that arbitration procedures are implemented with as little formality or delay as possible, and at the least cost to the parties.

Even after a dispute has been submitted to an arbitration or adjudication body, it is never too late to attempt to settle it by further conciliation.

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16. Special, simplified procedures may be established for the settlement of the following types of disputes, which are a cause of particular difficulty in many Asian countries, namely-

- (a) disputes over the application and interpretation of existing terms of employment, including the grievances or complaints of individual workers or groups of workers, such as alleged unfair treatment or unjust dismissals;
- (b) disputes over acts of interference with the exercise of the right to organise or to engage in legitimate concerted activity; and
- (c) disputes over trade union recognition.

#### OTHER SERVICES TO PROVIDE INFORMATION, ADVICE AND ASSISTANCE

17. As part of a programme of positive action to promote constructive relations and co-operation in industry, the government may, in consultation with workers' and employers' organisations, consider the possibility of establishing and developing services to provide information, advice and assistance to the parties concerned on specific problems they have to deal with.

18. With regard to problems of day-to-day relations, the conciliation service may, on request, provide information, advice and assistance to both of the parties concerned so as to reduce existing or possible causes of friction, to prevent disputes from arising in the future and to develop better understanding between them for the long-term development of their relationship. This work may be entrusted to qualified conciliation or industrial relations officers who have been specially trained for the purpose.

19. Information, advice and assistance may also be given on request and through trained officials-

- (a) on the establishment and maintenance of machinery for consultation and co-operation between employers and workers at the level of the undertaking, for the consideration of problems of mutual concern not normally dealt with through collective bargaining;
- (b) on appropriate consultative arrangements for dealing with such questions as the introduction of technological changes and mass dismissals or layoffs likely to result from such changes;
- (c) on the development of good personnel management policies and practices, including the establishment of personnel and industrial relations departments inside undertakings.

20. Where bipartite or tripartite machinery for consultation and co-operation at the national level or the level of the industry has been set up at the initiative of the government, adequate secretariat and technical services should be provided to ensure the smooth and efficient functioning of the machinery.

21. In the case of any service for giving information, advice and assistance in direct, personal contacts with the parties, adequate safeguards should be provided to ensure that the work is carried out by qualified officials and does not involve interference.

22. The government may also develop an information service to disseminate through publication and other communication media information on problems, practices, current developments and the results of studies of labour-management relations problems. This

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can help increase the understanding of those concerned and be of practical value to them in dealing with specific problems and issues.

### EDUCATIONAL AND TRAINING PROGRAMMES

23. The government services concerned should encourage and co-operate with employers' and workers' organisations in the development of their training programmes. Facilities may be provided by governments, for the training of managers, personnel managers, supervisory personnel and trade union leaders, officials and representatives in their labour-management relations functions and responsibilities. The training of managerial and supervisory personnel may be provided under general management development and supervisory training programmes. Trade union training programmes should be organised with a view to developing trade union leaders from the rank and file. Training courses may also be organised for management and workers' representatives in the use of the machinery for consultation and co-operation.

24. Besides regular training programmes and courses, it should be part of the programme of the government services concerned to organise conferences, study groups and seminars for the discussion of and exchange of views on problems, practices and experience.

### COLLECTION OF INFORMATION AND RESEARCH

25. Adequate government facilities should be provided for collecting and analysing economic data bearing on industrial relations, including collective bargaining issues.

Consideration should be given to improving the methods of collecting statistics of collective agreements and disputes, having regard to the resolutions adopted by the Third International Conference of Labour Statisticians on these questions.

26. Adequate government facilities should be provided for research in labour-management relations. Such research may include studies to develop basic understanding of industrial and human relations in the light of Asian conditions; studies of the factors which contribute to or hinder the development of good labour-management relations; case studies of satisfactory experience in collective bargaining and the development of consultation and co-operation; and studies of employers' and workers' organisations and their practices.

Steps should be taken by governments to encourage and promote research in labour-management relations by educational institutions and private organisations.

### RELATIONS BETWEEN PUBLIC SECTOR UNDERTAKINGS AND THE GOVERNMENT SERVICES CONCERNED

27. Public sector undertakings occupy an important position in the economy of Asian countries. They tend to exert a considerable influence on the development of labour-management relations in the country as a whole. Governments should give particular attention to the improvement of labour-management relations in such undertakings and especially their personnel management programmes. For this purpose there should be closer liaison between the managements of public sector undertakings or the government departments responsible for such undertakings, on the one hand, and the government services responsible for labour-management relations, on the other. The latter may provide advice and assistance to the former in developing better relations with the workers and their organisations and in organising training programmes for management and supervisory personnel.

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## NATIONAL ACTION AND ILO TECHNICAL COOPERATION

28. When proposing to take any measures or steps along the lines indicated in these observations, the governments concerned should consider the advisability of requesting technical assistance from the ILO. In particular, such assistance may be needed for developing services to provide information, advice and assistance to the parties concerned and for training government personnel in their work.

29. It was suggested that the governments concerned should consider planning their requests for ILO technical assistance as part of a long-range programme of national action for the improvement of labour-management relations, with particular emphasis on promotional and educational activities, with which such assistance should be closely integrated.

30. As to future ILO action in Asia, the wish was unanimously expressed that the ILO might organise periodically regional training seminars for government industrial relations officials and management and trade union personnel engaged in labour-management relations and that a regional seminar to deal with labour-management relations at the plant level might be organised in the very near future. It was also suggested that the ILO might conduct surveys of labour-management relations in Asian countries.

### **5. *Conclusions concerning the Strengthening of Labour Administration in Asia and Its Role in National Development with the Active Participation of Employers' and Workers' Organisations, 1975***<sup>49</sup>

#### GENERAL PRINCIPLES

1. Asian countries, in their search for new and more effective approaches to national development, are increasingly reorienting the objectives of their development planning. The recent trend is to move away from a purely growth-oriented policy towards a more social approach, which aims at establishing an equilibrium between the need to increase the production of goods and services and the need to promote greater social justice by a better distribution of wealth, increased employment and a more equitable distribution of income.

At the same time, it is increasingly recognised that a more equitable distribution of the wealth created by the joint effort of all sectors of the society will in itself be conducive to the creation of a better social climate and will thus be an incentive to increased production.

Likewise, the pursuit and attainment of economic and social objectives in national development is a prerequisite for popular participation in and support of national development policies.

2. Therefore, national development is a process which cannot be left exclusively to development and planning agencies and authorities but requires, if it is to yield practical results, the association of all sectors of the community, particularly employers and workers represented by their respective organisations. Hence Asian countries should re-examine existing machinery for consultation and co-operation between governments, including government agencies, and employers' and workers' organisations. Arrangements in Asian countries whereby the production of goods and services is left to employers and workers while the government reserves for itself the right to decide on the distribution of such

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<sup>49</sup> Adopted unanimously at the twelfth plenary sitting on 9 October 1975.

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goods and services should be replaced by arrangements whereby employers' and workers' organisations are associated with the decision-making process at all levels and with regard to all aspects of national development, including the distribution of such goods and services.

3. The government agency which, within the government machinery, is entrusted with the elaboration and implementation of the government's social and labour policy, i.e. the labour ministry, should be responsible for seeing to it that, in national development planning, objectives of social and labour policy find their appropriate place and consideration.

4. In order to enable the government agency entrusted with labour administration fully to play its part as the custodian of the social and labour policy of the country, it should have an appropriate place within the government machinery established for national development planning and should establish machinery or make other arrangements through which employers' and workers' organisations are closely associated with the formulation of the social and labour policy and with its implementation, and for that purpose should participate in all decisions relating to such policy. It is recalled that the Seventh Asian Regional Conference of the ILO (Teheran, 1971) stated in its resolution concerning freedom of association for workers' and employers' organisations and their role in social and economic development that "the government ministry or department responsible for labour affairs should, wherever appropriate, be the focal point for the participation of workers' and employers' organisations in the elaboration and implementation of development plans and programmes; however, workers' and employers' organisations should be entitled to make representations to other ministries or departments concerned with the elaboration and implementation of development plans and programmes".

5. Asian labour ministries and employers' and workers' organisations should be given proper representation for their participation in the over-all national development planning process.

6. Asian labour ministries need to be in a position to assume responsibility for working out the social and labour policy of their government, for seeing to it that such social and labour policy is fully reflected in national development planning, and for bringing about and maintaining a continuous dialogue with employers' and workers' organisations. Therefore, labour ministries need to be strengthened. Such strengthening should consist in giving labour ministries a place within the government structure which is commensurate with their important task and in equipping them with the necessary staffing and budgetary resources.

7. In order to translate these general principles into practice the following measures are advanced for consideration.

#### SUGGESTIONS FOR ACTION ASSOCIATION OF EMPLOYERS' AND WORKERS' ORGANISATIONS

8. It is imperative that the association of employers' and workers' organisations with the elaboration of national development policy and social and labour policy takes the form of a genuine dialogue and is not a mere formality. The practice whereby employers' and workers' organisations are presented with government proposals already worked out in detail and whereby such proposals are submitted for comment to the organisations in such a way or at such a late date that these organisations are practically unable to examine the situation and to make well-prepared observations should be abandoned. It should be replaced by arrangements for continuous consultation during which employers' and workers' organisations should not see their role confined to reacting to proposals prepared by government authorities but should be given an opportunity to submit their own views or proposals at an early stage so that their position can be taken into account before the

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government authorities formulate their proposals. While the establishment of permanent machinery such as bipartite or tripartite committees or advisory councils is desirable and necessary under certain circumstances, it is of equal importance that the ministry of labour, the planning authorities or agencies and other government departments should seek the views of employers' and workers' organisations and discuss with them regularly the problems under consideration.

9. In order to be able to play an active and constructive role in national development, employers' and workers' organisations in Asia should equip themselves with the technical expertise which is the prerequisite for a meaningful contribution to the elaboration of national development policies. Such organisations should, in particular, establish their own research and documentation units and should include in their staff people who are conversant with the various aspects of development, especially economic aspects. The need for this is particularly acute in certain Asian trade unions. Effective education and training programmes, whether carried out by employers' organisations or trade unions themselves or with financial support from governments, are an essential tool for the acquisition and spreading of technical knowledge and understanding of development. Employers' and workers' organisations should be given every encouragement and opportunity to demonstrate that they can make a contribution to the work of the government agencies involved in national development planning.

#### LABOUR MINISTRIES AND DEVELOPMENT PLANNING

10. The principles set out in the preceding paragraph should also govern the relationship between, on the one hand, the government agencies and departments primarily entrusted with the working out of the national development policy and, on the other, the labour ministry. In addition to government departments responsible for economic affairs, finance and industry, labour ministries also should be represented on planning commissions and other bodies at all levels responsible for national development and government officials in various departments, including the labour department, particularly those in positions where decisions are taken, should as a matter of general administrative practice consult each other on matters relating to national development.

#### TECHNICAL RESPONSIBILITIES OF LABOUR ADMINISTRATION AGENCIES

11. While the more traditional functions of Asian labour administration agencies, particularly those relating to the elaboration and enforcement of labour legislation, administration of social security schemes, operation of vocational training, settlement of labour disputes, placement, etc., will continue to retain their importance and will even have to be intensified in some countries of the region, Asian labour ministries should re-examine their role with a view to extending their activities into new areas dictated by the requirements of economic and social development, particularly combating poverty, creating jobs, bringing about a more equitable income distribution, population policy and family planning, and designing special programmes for the training and employment of women. For the over-all development of rural areas through active encouragement of voluntary rural workers' organisations, consideration should be given to the establishment of special services within the labour ministry to deal with rural problems. This may require a redefinition, in close co-operation with employers' and workers' organisations, of the functions and responsibilities of labour ministries with a view to making these agencies more effective instruments of social and economic progress in national development, both for the traditional organised industrial sector as well as for the vast unorganised and depressed rural sector.

12. One area in which labour ministries in many Asian countries may have to assume new responsibilities is the public sector of the economy. In a growing number of Asian countries the government is getting increasingly involved in industrial and commercial



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activities through public corporations and other forms of state-owned undertakings, and in several Asian countries the government is the biggest employer or one of the biggest employers. Appropriate steps should be taken to co-ordinate the functions of those ministries or government departments which are directly responsible for the management of state-owned enterprises and labour ministries to make sure that public-sector undertakings are operated in line with the economic and social policy of the government and that there is a proper balance between the role of the government as an employer and that of a third party in labour relations and of a custodian of the interests of the community at large.

13. Given widespread unemployment and underemployment in most developing Asian countries, the labour ministries of these countries should give high priority to measures aimed at increasing job opportunities towards full employment. A prerequisite for any systematic policy in this area is the availability of reliable statistical data which allow the measuring periodically of the imbalances in job supply and demand with regard to skills, industry, age, sex, education, area and race. A clear definition of the concepts of employment, underemployment and unemployment is a condition for an efficient employment information system. Labour ministries in various Asian countries could do much to intensify and expand their activities in such fields as labour mobility, employment in rural areas, promotion of public works, including housing policy, the development of appropriate science and technology policies, transmigration between various regions, and population policy. Labour administration authorities in Asia should develop annual and rolling employment and manpower plans, or employment and manpower targets, in line with the national development plan and in co-operation with other government agencies, particularly the planning authorities. Beyond participation in employment information gathering and policy formation, labour administration agencies might be entrusted with some pilot projects of assistance to employment creation by direct financial subsidies and training facilities particularly in areas, especially rural areas, where youth and women have insufficient employment opportunities. Closely related to the promotion of employment is the need for Asian labour ministries to review their role in vocational training, retraining and vocational guidance. In the whole area of employment and training it is indispensable to secure the cooperation of employers' and workers' organisations.

14. Asian labour ministries should improve the effectiveness of labour inspectorates in order to reduce the occurrence of accidents and occupational diseases. In some Asian countries the high number of man-days lost due to work injuries is a heavy social and economic burden. Special attention needs to be given to an increase of the number of labour inspectors and auxiliary inspectors, to a proper training, especially practical training, of labour inspectors, particularly as regards the use of new technology in the modern sector of industry, agriculture and transport, and the extension of inspection services to the rural areas. Employers and their organisations as well as trade unions should be more closely associated with the working out of measures aimed at an improved protection of workers against health and safety hazards, with a view to achieving full compliance with the national laws and the international standards as laid down in the Labour Inspection Convention, 1947 (No. 81).

15. Income distribution is the area in which the question of the respective roles of the government, acting through the labour ministry, and employers' and workers' organisations is a particularly sensitive and crucial issue in Asian countries. To the extent to which the labour ministry or another government department does not directly intervene in the determination of incomes, either through the fixing of minimum wages or through the fixing of income tax, Asian governments exercise only an indirect control over the fixing of wages through the regulation of collective bargaining and the settlement of industrial disputes. As a general proposition, it is desirable to leave it as much as possible to employers and their organisations and to trade unions to establish wages and working conditions by way of direct negotiations. As pointed out by the Fifth Asian Regional

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Conference of the ILO (Melbourne, 1962) there is much Asian labour ministries can do by way of promotional, educational and advisory services to further collective bargaining and sound labour relations. In many Asian countries it is considered that national conditions do not permit of entirely unrestricted collective bargaining. Varying degrees of government intervention are expressed in statutory provisions on collective bargaining and in different forms of government action with regard to the prevention and settlement of different types of labour disputes. In some countries trade unions or employers' organisations are dissatisfied with government intervention in labour disputes whereas in other countries trade unions or employers' organisations accept government action either in support of their own respective position or as a necessity in the interest of national development. Where labour disputes are settled by a binding award issued by an industrial court, arbitration court or similar body it is imperative that the proceedings before such bodies be conducted with a minimum of legal formalities, without cost to the parties, and without undue delays.

16. The fixing of wages poses particular problems to Asian labour ministries in small scale industries, agriculture and, generally, in rural areas where strong workers' organisations are almost non-existent and where minimum wage rates or minimum working conditions are lacking in full enforcement. While labour ministries can do much to tackle this problem by improving minimum wage fixing procedures and by extending and strengthening labour inspection services, the most effective measure to improve the lot of rural populations is the promotion of organisations of rural workers.

#### FUTURE ILO ACTION

17. The ILO can make an important contribution to the implementation of the abovementioned principles and suggestions by giving advice and assistance to labour ministries and employers' and workers' organisations. In the United Nations family the ILO is the only tripartite organisation. It has direct access not only to governments but also to the employers' and workers' organisations, i.e. the parties to the development programmes of Asian countries. The long experience and the technical competence of the ILO in the matters referred to in these Conclusions are unique in the world and its competence in this field is not questioned by any other international organisation. For these reasons it is proposed that the ILO should consider the following suggestions.

18. The contribution which labour ministries and employers' and workers' organisations can make to the national development of Asian countries should be a theme of high priority in ILO activities in Asia during the years to come. In its programme for Asia the assistance given by the ILO should be practical and geared to concrete needs which may arise from the joint efforts undertaken by labour ministries and employers' and workers' organisations to speed up national development.

19. As regards technical co-operation, emphasis should be placed on training programmes including workers' education, training of labour administration officials, and assistance to employers' and workers' organisations. These various programmes should place the emphasis on training courses and regional exchange of views and experience among Asian countries through seminars and similar meetings and study tours. With regard to advice which the ILO could provide at their request to Asian governments, employers' organisations and trade unions on questions of labour and social policy, the ILO should consider the sending of experts or teams of experts, who are familiar with Asian conditions, on short-term advisory missions to give Asian countries an opportunity to discuss their concrete problems in an informal way with persons who possess comparative experience.

20. The work of the Asian Regional Project for Strengthening Labour and Manpower Administration (ARPLA) should be continued and expanded. Its activities should be extended to benefit not only labour administration services but also employers' and

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workers' organisations, including assistance in rural organisation development, in matters of direct concern to Asian labour ministries.

21. Labour relations and development, i.e. the relations between governments and employers' and workers' organisations and the contribution which these three parties can make to the national development of Asian countries should be a central theme for the work of the ILO in Asia for the coming years. In the light of the findings of the ILO-NORAD Industrial Relations Symposium for Asian Countries (Manila, 1975) it is proposed that the Governing Body of the ILO consider placing on the agenda of the next session of the Asian Advisory Committee and of the next Asian Regional Conference the question of "Labour relations and development in Asia". The emphasis in the discussion on this question would not be on the legal and institutional aspects of such matters as collective bargaining, labour disputes and other forms of relations between governments and employers' and workers' organisations, but on the influence which requirements of national development exercise on the conduct of labour relations and on the contribution which sound labour relations can make to the economic and social development of Asian countries.

## **6. *Conclusions concerning Freedom of Association, Labour Relations and Development in Asia, 1980***

### GENERAL PRINCIPLES

1. In their search for new and effective approaches to national development, most Asian countries are at present engaged in the reconsideration and revision of their labour relations systems. The relevance of labour relations to development is, in fact, increasingly recognised. A constructive relationship between workers and employers, between workers' organisations and employers' organisations, and between these organisations and the public authorities is of fundamental importance for the formulation and implementation of development policies, the organisation of the production process at the plant and industry levels and the equitable distribution of income. On the other hand, the absence of constructive relations between the three parties may jeopardise efforts aimed at the promotion of social and economic development.

2. Progress in national development efforts depends on the support of workers' and employers' organisations, which again is dependent on their effective participation in the labour relations system. A prerequisite of such participation is the establishment and expansion of strong, representative and independent organisations based on the respect of the principles of freedom of association. Governments should therefore give serious consideration to the ratification and effective implementation of ILO Conventions on freedom of association. The existence of restrictions on the rights of workers' and employers' organisations is likely to constitute a serious obstacle to the adoption by workers and employers and their organisations of a constructive attitude towards the development efforts of the governments. Such an attitude is a fundamental element in any labour relations system and should be geared to the shaping of an agreed approach to development policies and their implementation.

3. The adjustment of labour relations patterns to development requirements should not impinge on freedom of association, the right to organise and the right to bargain collectively.

Within the framework of this general principle, each country is expected to develop its own system of labour relations, which will have to strike the optimum balance between apparently diverging needs arising in the process of development, such as in the areas of employment creation and a fairer income distribution. The best way of achieving this is by effective communication, bipartite and tripartite negotiation and consultation between

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trade unions, employers' organisations and the government, at various levels, and through effective dispute settlement procedures, in particular conciliation and arbitration procedures. Arbitration procedures should not only be impartial and independent but should also be established in such a manner as to ensure the confidence of the parties involved. National labour relations policy may include voluntary guidelines for the promotion of constructive relations between workers' and employers' organisations and the government, agreed upon between the parties, and which would take into account the particular social and economic conditions prevailing in each country, the patterns of behaviour and the cultural traditions.

#### ROLE OF THE ILO

4. In the efforts of Asian governments, employers' organisations and workers' organisations to work out systems of labour relations which are conducive to national development and which respect freedom of association, the ILO has a major role to play. While it is recognised that the policy decisions on the orientation and content of labour relations policy should be left to joint deliberations between the government and the employers' and workers' organisations of each country of Asia and the Pacific, taking into account the specific conditions and circumstances of each country, the ILO can assist in these efforts in a number of ways.

5. In a general way, the ILO should step up its activities in the Asian and Pacific region in the field of freedom of association, labour relations and development and should allocate a larger portion of its resources to this work. It should, in particular, strengthen its regional staff by people who have specialised knowledge and experience with labour relations in the region, particularly as regards labour-management relations at the enterprise level.

6. In pursuing and strengthening its work on the linkages between labour relations and development, the ILO should be guided by the general principles and considerations set out in the first section of these conclusions. In particular, the ILO's future work should concentrate on the following:

#### STUDIES

7. The ILO should develop a programme of studies on the labour relations situation in Asia and the Pacific. Such studies, rather than being academic and theoretical in nature, and rather than describing the labour relations legislation of the various countries, should take the form of factual surveys.

8. In order to ensure that these studies are as close as possible to the reality and reflect the views of those directly involved in the labour relations processes, it is indispensable that ILO studies be carried out in close association with the governments and employers' and workers' organisations concerned.

9. It is of great importance that the ILO, in carrying out these studies, makes full use of research and other suitable institutions which exist in the region and which have experience in carrying out labour relations surveys. At the same time, the ILO should assist in creating such institutions and should help those already in existence.

10. A strong emphasis should be placed on enterprise surveys both in the public and private sectors. The purpose of such surveys should be to detect and analyse the practical problems arising on a day-to-day basis between employers and workers and their representatives at the enterprise and shop floor level. In carrying out such surveys, the ILO should select, in consultation with the government and employers' and workers' organisations concerned, enterprises which are typical of the situation in the country concerned and not necessarily those which have been particularly successful in setting up

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labour relations systems based on cooperation between employers and workers. It is important that the ILO studies should be based on discussions with the management and workers in the enterprises concerned.

11. Another area in which the ILO should undertake studies and surveys is collective bargaining and other forms of workers' involvement in decision making at the enterprise and industry level. Here again, emphasis should be placed on what happens in actual fact around bargaining tables or in joint consultation meetings. Such studies should also aim at identifying possible areas of co-operation between management and labour, including forms of and prerequisites for such co-operation.

12. The ILO should also carry out surveys of the way in which conciliation and arbitration bodies function in various countries of the region. The subject of such studies and surveys should be the day-to-day work of individual conciliators, conciliation boards and arbitration bodies, courts and tribunals and industrial relations commissions.

13. In all its studies on these and other aspects of labour relations in the region, the ILO should place particular emphasis on the need to identify the factors which foster as well as those which hamper the development of constructive labour relations, conducive to development.

14. The surveys and studies to be undertaken by the ILO should take account of the specific social, economic and cultural factors of the countries concerned. The studies therefore need to be backed up by analytical research into these various factors which aim at explaining the "why" of various labour relations phenomena in Asian countries by placing the employer-employee relationship within the social and cultural context of Asia and the Pacific. It is expected that such studies will thus re-examine the functioning within the context of each country of the region, and of such labour relations practices as collective bargaining, labour-management consultation, conciliation, arbitration or workers' participation.

15. It is important that governments, employers' organisations and workers' organisations should not only be associated—as stressed above—with the preparation and carrying out of such studies but that the outcome and results of such studies should be discussed with those directly concerned. The aim of the studies and research should be to promote endeavours to improve labour relations and to assist the parties concerned in better understanding and appreciating the problems in their mutual relationships so that they can jointly try to work out solutions.

#### TRAINING AND PROMOTION OF EXCHANGES OF VIEWS

16. Another important means of action by which the ILO can contribute to the promotion of sound labour relations in Asia and the Pacific is training. In a general way, the ILO should broaden and intensify its training activities for trade unionists, officials of employers' organisations, management representatives in charge of personnel and labour relations matters and government officials who are particularly concerned with the relationships between employers and workers.

17. Such training activities should be conducted through seminars, training courses, workshops and other meetings through the medium of the languages spoken in the region. While it is very important that there should be separate training activities for government, employers' and workers' representatives, including women, it is equally important to arrange for training courses and seminars in which representatives of different interest groups can be brought together so that they can better understand and appreciate the views and aspirations of the other parties. The ILO should, for instance, organise training courses in which it would bring together managers, trade unionists and government industrial relations officers, or shop stewards, line managers and personnel managers, or—more

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specifically—employers’ and workers’ representatives in collective bargaining or joint consultation from the same enterprise or industry.

The ILO should also extend its training activities in the labour relations field to those who are not directly involved in labour relations but whose role in their countries has a direct bearing on labour relations, such as officials of ministries of industry, finance, economic affairs and the planning agencies, in order to make them better aware of the importance and complexities of labour relations issues.

18. One form of training, to which the ILO should pay particular attention, is the organisation of study tours. Here again study tours should be organised separately and jointly for representatives of trade unions, employers’ organisations and governments. While such study tours should primarily provide an opportunity for the participants to become acquainted with the labour relations situation in other countries of the Asian and Pacific region, such study tours should also be organised for participants from the region to other parts of the world so that they can compare their experience with that of countries outside the Asian and Pacific region.

19. Another way by which the ILO could contribute to the improvement of mutual understanding among governments, employers and trade unions is the convening of tripartite meetings in order to facilitate an exchange of views among them on various topical issues of labour relations. Such tripartite meetings should be organised on a regional, subregional or national level. More specifically, the ILO could contribute to the promotion of sound labour relations policies by helping to convene national meetings of labour policy makers in governments, and high-level trade union and employers’ representatives, to discuss changes in the country’s labour relations policy or industrial relations legislation, whenever such changes are envisaged and the government concerned wishes to hold such meetings for exchanges of views with the help and participation of the ILO or under ILO auspices.

20. In certain Asian and Pacific countries it might be possible to extend, at the request of a particular government, the facilities of the ILO so as to become more directly involved with the promotion of sound labour relations. In a country which might be interested in such an effort and, subject to the agreement of the government as well as of the employers’ and workers’ organisations concerned, a tripartite—or sometimes perhaps bipartite—meeting could be convened at the economy-wide level or at the level of a particular industry with the technical and moral support and participation of the ILO. At such meetings the ILO would not only provide technical information and serve as a catalyst for the testing of ideas but could, if the parties so request, actively assist in bringing about, with the help of its technical experience and competence, some form of arrangement in which labour relations are linked with national development. Such arrangement could take the form of a code of labour relations practices, basic agreement, agreed guidelines for the conduct of sound labour relations or some other form of mutual co-operation. It would have to be understood that the responsibility for the development and implementation of such arrangement would be with the government and employers’ and workers’ organisations concerned. The role of the ILO would take the form of assistance, promotion, encouragement and technical servicing. It is understood that the ILO contribution to such an effort would be in conformity with the general principles developed by the Organisation.

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## **7. Conclusions concerning Growth and Structural Adjustment, 11<sup>th</sup> Asian Regional Conference, 1991**

### **I. GENERAL CONSIDERATIONS**

1. The Plenary of the Eleventh Asian Regional Conference of the ILO had on its agenda a technical item on Growth and Structural Adjustment. As background to its deliberations, the Conference took into consideration the renewed ILO mandate given by the High-Level Meeting on Employment and Structural Adjustment, held in Geneva in November 1987, and the continuing promotional role envisaged for the Employment Policy Convention, 1964 (No. 122).

2. Asian and Pacific countries have, in general, achieved significant economic progress and performed well in alleviating poverty during the 1980s. Despite these positive developments, the region as a whole still contains, in absolute terms, the largest number of poor people in the world. Enormous variations exist across the region in the rates of economic growth and the standards of living attained. While some countries have grown spectacularly in recent years and have attained the status of newly industrialising economies, some ASEAN and most South Asian countries still have vast numbers of people seeking a threshold standard of living.

3. The second oil price shock of 1979, which triggered off a global recession during the early 1980s, aggravated the large budget and current account imbalances that already existed in most of the Asian and Pacific countries. These countries resorted to a number of adjustment measures that included both short-term stabilisation policies to restore imbalances, and medium-term structural adjustment policies to bring about greater efficiency in the structure of investment, production and trade. The structural adjustment programmes essentially contained measures to liberalise trade, set exchange rates at realistic levels, rationalise public sector expenditure, privatise public sector undertakings, and bring about financial and fiscal reforms to mobilise and allocate resources more efficiently.

4. The overall growth of countries in Asia and the Pacific has been better than that of other regions in the 1980s, a period during which substantial structural adjustment occurred.

However, economies in the region will need to adjust further in the 1990s in the face of the continuing impact of economic difficulties and technological changes. Formerly centrally planned economies will have to implement the difficult transition to a market economy, while many other countries will need to persevere with structural adjustment programmes initiated in the 1980s. For both groups of countries, depending on their initial circumstances, the process of adjustment will include varying extents of economic liberalisation, the privatisation of previously public functions, deregulation and increased reliance on market forces.

5. This process of structural adjustment should aim at greater efficiency in resource use and increased productivity at the enterprise level. It should lead to higher rates of economic growth which is an important pre-condition for raising living standards and achieving broad social progress in countries in the region. If the growth process is combined with policies to ensure a high level of employment creation then it will also be a powerful means of eradicating poverty.

An employment-intensive pattern of growth will ensure increasing opportunities for the labour force, including the poor and other disadvantaged groups, to be absorbed into productive employment at higher levels of income. Policies for promoting rural development and the growth of self-employment and productive employment in the

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informal sector will be important elements of an employment-intensive growth strategy. Similarly, policies to encourage market forces and to promote flexible, efficient and equitable functioning of markets will support the attainment of growth and employment objectives. In particular, policies to improve the functioning of labour markets through the removal of unwarranted barriers to labour mobility will be important for achieving successful structural adjustment.

6. Attainment of the objectives of higher overall economic efficiency and output will also require a competitive and profitable enterprise sector as a major engine of economic and employment growth. In this respect, small- and medium-sized enterprises (SMEs) can play a particularly important role in view of their ability to combine resilience and flexibility with high potential for relatively low-cost job creation. It is thus clear that, in addition to a facilitative policy environment, one of the important prerequisites for successful structural adjustment is well-trained, competent and motivated managers and workers at all levels of the economy.

7. These moves towards greater efficiency will have to take place in an environment of full respect for trade union rights, a full commitment to ILO labour standards and a consultative approach to change. In this respect, the observance of Conventions Nos. 87 and 98 on freedom of association and collective bargaining will assist workers and employers to participate in such consultations. Other important factors for structural adjustment are the existence of a sound system of industrial relations and provision for improved working conditions. Structural adjustment will have the best chance of success where it is based on social consensus and an equitable sharing of the burden of adjustment.

8. It is also important that structural adjustment programmes be framed in the context of a country's long-term objectives for economic and social development. Ad hoc and hastily conceived adjustment measures will be counter-productive and may prevent the attainment of longer-term development objectives. These longer-term objectives include the attainment of sustained economic growth, social progress which is both broadly based and equitable and the elimination of poverty, especially rural poverty. The elimination of discrimination against women and other disadvantaged groups and the abolition of child labour are also important objectives. In addition, the impact of population and labour force growth on the employment problem will have to be taken into account.

9. The experience of the 1980s has shown that even with reasonable rates of economic growth the process of adjustment is accompanied by social costs which will have to be addressed through special policies and programmes designed to provide a safety net for those social groups disadvantaged by the process. The social costs of adjustment have, in several countries, been manifested in the difficulty of maintaining an adequate rate of growth in productive employment, in the rise of employment insecurity in labour markets and in the increased exposure of vulnerable groups to economic insecurity and poverty. In some countries the employment problem arose as a result of reduced rates of labour absorption in agriculture and manufacturing, in spite of respectable rates of growth in output. It was aggravated by retrenchments from the public sector and uncompetitive industries. In many cases this was followed by an expansion of low productivity and low-income employment in the informal sector. In these countries there has been an increase of employment insecurity. There has also been an increase in self-employment, casual employment and atypical forms of employment such as out-working. At the same time there has been an increase in economic insecurity and poverty as vulnerable groups, such as women workers, those in precarious jobs, and marginal producers in the informal sector, suffered the effects of inflation, price deregulation, the removal of subsidies and cut-backs in public expenditure on social programmes.

10. Given the importance of ameliorating the adverse employment impact of structural adjustment measures, and the role played by SMEs in generating productive



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employment, it is essential to consider ways and means of creating environments conducive to their sustained and accelerated growth. Structural adjustment involves reforms aimed at economic liberalisation.

Such measures should remove any existing discrimination against SMEs. In this respect, the policy environment for SMEs in the Asian countries has varied considerably, ranging from deliberate promotion and protection to benign neglect.

11. Apart from the difficulties arising from the overall policy environment, the SME sector is often faced with a number of specific constraints. Despite a range of SME credit programmes introduced in many countries, it is often difficult for SMEs to benefit fully from these schemes due to excessively complicated procedures or a lack of commitment from the banks or other financial institutions involved. Many countries still do not have institutional structures to provide effectively integrated support to SMEs in such areas as training, consultancy, technology, marketing and extension services. Existing programmes aimed at skill development will need to be specifically designed to meet the needs of SMEs, particularly with regard to support services. These promotional measures should be accompanied by special efforts to improve working conditions, social protection and earnings in SMEs. It should be noted in this context that SMEs are often characterised by low rates of unionisation which increases the vulnerability of employees in such enterprises. The same imperative to improve employment conditions, earnings and social protection applies to self-employment and the informal sector.

12. In the face of challenges posed by structural change and new technologies, a significant element in the development strategies of Asian and Pacific countries will be human resources development. Developments in labour markets will need to be monitored closely in order to identify emerging skill requirements and to assess training and retraining needs. An active labour market policy, including an important component for retraining and labour redeployment, will be important in this context.

13. In order to increase and improve the opportunities available for acquiring occupational skills related to the introduction and adoption of new technology, the tripartite constituents of the countries in the region should work together to develop policies and improve capabilities for the planning and coordination of all forms of vocational training, such as job-entry training, retraining and upgrading conducted by institutions, enterprises and communities.

This should be done within the framework of the Human Resources Development Convention, 1975 (No. 142).

14. Many developing countries in the region are attempting to accelerate rural transformation through industrialisation, technology transfer and increases in non-farm employment.

Since rural people have low educational attainments, innovative approaches will be needed to train them in the skills required to increase productive employment through technology transfer. The active participation of rural workers' organisations, in pursuance of the Rural Workers' Organisations Convention, 1975 (No. 141), will be an important part of this process.

## II. RECOMMENDATIONS FOR ACTION AT THE INTERNATIONAL AND REGIONAL LEVELS

15. Further progress in the liberalisation of international trade and expanding world markets will ease the external constraints on structural adjustment in individual countries.

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Industrialised countries are encouraged to take the necessary measures to expand international trade and provide greater access to their markets. Throughout the 1980s the countries of the region were, to varying degrees, affected by the worldwide recession, mounting protectionism, declining commodity prices, trade deficits and external indebtedness. Successful adjustment and poverty alleviation can be much more readily attained within a healthy world economy.

16. The experience of the past decade in the Asian and Pacific region has demonstrated that successful structural adjustment is possible. While it remains true that adjustment programmes have to be tailored to the specificity of the economy and the level of development of each country, the lessons learnt have to be carefully understood and incorporated in policy-making.

To this end, there is a need for increased inter-country cooperation and exchange of information on how to manage adjustment successfully. This would include dialogue on issues such as: (a) the framing of stabilisation and structural adjustment policies which are consistent with a country's long-term development objectives as well as the objective of minimising the social costs of adjustment; (b) the creation of an incentive structure conducive to employment intensive growth patterns; (c) the development of active labour market policies which include social protection for workers and others experiencing adjustment difficulties; (d) the formulation of policies and measures to create an economic environment that will promote investment, competition and enterprise growth, especially in SMEs and the informal sector; and (e) the gearing of training policies and systems to meet skill requirements emanating from industrial restructuring and technological changes.

17. There is a need to conduct comparative studies on alternative development strategies for coping with rapid changes in the world economy. Individual country experiences with different emphasis on an inward or outward orientation should be analysed and lessons for policy should be distilled.

18. Technical cooperation among developing countries (TCDC) within the region should be directed towards employment promotion and the encouragement of small and medium enterprises, with a view to alleviating poverty. Countries with the best performance record in these areas could provide assistance to those which have lagged behind. Similarly, regional networks should be established for the exchange of information and advice on the institutions and policies for promoting SMEs.

19. The High-Level Meeting on Employment and Structural Adjustment stressed the important role to be played in promoting effective growth-oriented adjustment programmes by a number of international organisations, including the World Bank and the International Monetary Fund (IMF). The Meeting called upon all such organisations, including the ILO, to assist developing countries in the design and implementation of policies and programmes which take into account the needs and problems of the poor and can be carried out with minimum social cost. This recommendation remains highly valid today and should be given renewed emphasis, with the ILO taking further initiatives to participate effectively in this process.

### III. RECOMMENDATIONS FOR ACTION AT THE NATIONAL LEVEL

20. The following actions are recommended at the national level:

- (i) Governments should play a positive role in facilitating structural reforms and creating a more conducive environment for economic growth, employment generation, poverty alleviation and human resources development. Adjustment measures have to comprise a comprehensive and properly sequenced package of reforms and to be consistent with long-term development objectives.

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(ii) With a view to obtaining the commitment of employers' and workers' organisations to the adjustment process, mechanisms should be available for their effective participation in programme formulation and implementation. These should include the necessary machinery for tripartite consultation on the major decisions affecting the social partners and suitable communication channels with the government for the on going exchange of information and views on relevant policy matters. The members of employers' and workers' organisations should have access to education and training programmes that would better equip them to monitor and assess the economic and social aspects of structural adjustment programmes and to articulate their views in policy debates aimed at achieving social consensus.

(iii) Careful consideration should be given to the employment implications of alternative policy packages at the macro-economic, as well as sectoral, levels. Governments need to build up appropriate mechanisms and institutions to monitor the impact of structural adjustment on employment and incomes, especially of the relatively vulnerable groups.

Such monitoring mechanisms would be required in designing and formulating macroeconomic and sectoral policies that would address the needs of such groups.

(iv) In introducing austerity measures, governments should be sensitive to their social impact. The restructuring of government expenditure should take account of the need for the poor to have access to essential social services. Special employment and income generating schemes have to be provided in countries where adjustment programmes have not had a positive impact on unemployment and falling household incomes. Social or employment funds could be set up to finance such employment schemes and serve as a social safety net for vulnerable groups.

(v) In restructuring government expenditure, consideration should be given to the role of the public sector in developing physical infrastructure (e.g., roads, electricity, etc.) without which private sector investment would be sub-optimal. Also, the public sector has to play a crucial role in providing basic needs services, such as health and education, and should ensure that the poor, especially in rural areas, have access to them.

(vi) Governments and the social partners should collaborate in adapting labour market and social protection policies with a view to introducing greater labour mobility and job flexibility while mitigating employment insecurity arising, inter alia, from privatisation and labour market deregulation. Actions are required to facilitate redeployment and promote labour mobility while offering a threshold level of protection, including social security, during the transition.

(vii) Individual countries should review and change, where necessary, the policy framework at macro and sectoral levels to encourage the growth of SMEs and maximise support for this sector. Effective support mechanisms should be developed to promote SMEs in both urban and rural areas. The need for an integrated range of services (credit, markets, technology, training and extension services) should be assessed, and means explored to ensure how SME support programmes could develop a degree of self-reliance. In this respect attention should be given to mobilising private sector resources and expertise, and to using trade unions and NGOs as delivery channels for programmes.

(viii) Employers' organisations should help their members adapt to a more competitive environment by creating greater awareness of sound management practices,

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market opportunities, technological advances that are suitable to national conditions, and measures aimed at enhancing productivity. Where possible, they should make a special effort to assist small- and medium-sized enterprises, in both urban and rural areas, by facilitating access to credit and a range of support services, and by promoting subcontracting arrangements between SMEs and large enterprises.

- (ix) Through their participation in the formulation and implementation of adjustment policies and programmes, workers' organisations will contribute to ameliorating the social consequences of adjustment. This will include awareness raising through training, research and information programmes and performance of a wider advocacy role. With a view to facilitating the adjustment process, they should support active labour market policies which they deem appropriate. They also should explore the possibilities for providing a range of support services to small and micro-enterprises, including cooperatives, and could also contribute to raising the level of organisation of workers in this sector. In addition, they should further develop their expertise in the area of occupational safety and health so as to better inform and train their members and to work effectively with employers in overcoming problems in this area.
- (x) Individual countries should carefully design and formulate a national training policy in the light of changing skill needs owing to the introduction of new technologies and industrial structures. There will be a rapidly changing demand for training of new workers, as well as for upgrading the skills of and retraining existing workers.
- (xi) Given the increased emphasis on privatisation, governments should encourage private sector initiatives in skills development in the country. In this regard, establishing joint private-public sector training facilities should be explored. Mechanisms should also be devised to support the special entrepreneurial and skills requirements of small firms.
- (xii) Governments should plan for greater resource allocation to research and development (R&D) facilities for developing the higher skills required to facilitate the adoption of new technologies.

#### IV. ROLE OF THE ILO

21. Against the background of a strengthening of ILO field operations, arising principally from an increased emphasis on devolution of responsibility, accountability and resources from head office to regional and area offices, the ILO should undertake the following actions in support of structural adjustment programmes in countries in the Asian and Pacific region:

- (i) Review the impact of structural adjustment programmes on employment, incomes and wages, especially of the relatively vulnerable groups. In addition, the comparative experience of structural adjustment programmes should be examined to identify the more successful strategies and mechanisms. Given the significant role of SMEs in generating growth and employment during adjustment, comparative evaluation of the policy environment, delivery mechanisms and promotional programmes for SMEs should be undertaken.
- (ii) Provide technical advice to promote and strengthen viable tripartite structures to facilitate their involvement in the planning and implementation of structural adjustment policies and programmes. Such support should include measures to promote greater social consensus in respect of the country's adjustment

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programme focusing, in particular, on wages, employment/income security, labour standards, efficiency, productivity and training.

- (iii) Provide advisory services and technical assistance in the formulation and design of a structural adjustment programme that would ensure growth with minimal social cost.

These would include incorporating employment concerns into the formulation, implementation and monitoring of development programmes and projects.

- (iv) Provide advisory services and technical assistance in formulating and designing effective social safety net policies that would include employment and income generating programmes for target groups, training and other compensatory measures. Tripartite consultations involving member countries of the region should be undertaken with a view to strengthening social protection measures, which is a prime need in the context of structural adjustment.
- (v) Provide technical assistance in strengthening the database for monitoring the employment and income impact of structural adjustment programmes. Such a system could also be developed to generate appropriate data for effective monitoring of labour market trends.
- (vi) Initiate regional network building in relation to SMEs and provide advisory services and technical assistance in the areas of:
  - a) policy formulation at macro and sectoral levels;
  - b) institution building and strengthening;
  - c) training of SME trainers and consultants;
  - d) introduction of entrepreneurship elements into educational and vocational training systems, and
  - e) productivity improvement through better working conditions.
- (vii) Conduct inter-country studies to review comparative experience of the human resources development implications of industrial restructuring. In this regard, there should be increased efforts to facilitate the exchange of information that would assist governments to evaluate and undertake steps to reduce human resources constraints on industrial restructuring. Based on the above, advisory services and technical assistance could be provided in the design and formulation of training policies and efficient and cost-effective mechanisms for providing technical and vocational training. Alternative methods of financing vocational training, especially for new technologies, also need to be explored.
- (viii) Provide technical assistance in developing appropriate strategies and policies for the promotion of self-employment and micro-enterprises in the informal sector, especially targeted at the most vulnerable groups, such as women and youth. Such assistance should aim at retaining the dynamism of the sector and ensuring better security and working conditions for workers.
- (ix) Collaborate with the World Bank and the IMF with a view to influencing these agencies to:
  - a) take action to mitigate the social costs of adjustment;

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- b) introduce social aspects in the design stage of adjustment programmes; and
  - c) take more fully into account the social and labour concerns of the ILO's tripartite constituency.

22. In carrying out the role envisaged above, the ILO can fruitfully draw on the expertise and services of its regional advisers and regional centres, especially the Asian Regional Team for Employment Promotion (ARTEP) and the Asian and Pacific Skill Development Programme (APSDEP).

## **8. Conclusions, 13<sup>th</sup> Asian Regional Meeting, Bangkok, 2001**

[...]

17. The delegates reiterate that the most effective way to define and implement a national policy to reduce the decent work deficit is through tripartite social dialogue and that such dialogue is only possible when the participants are equal partners. The delegates call upon the ILO to play a more effective role in strengthening the social partners through research and training.

18. While expressing concern at the lack of information on, and evaluation of, the follow-up to the conclusions of previous Regional Meetings, the delegates urge each member State of the Asia-Pacific region to establish, through tripartite discussion and consensus, a national plan of action for decent work, which should define, within the overall framework of the ILO decent work agenda, national priorities, a timetable for implementation and a set of indicators for the purposes of regular tripartite monitoring and evaluation. The delegates request the Office to provide such assistance to the tripartite constituents in the design of these national plans of action as they may consider necessary.

19. The delegates request the Office to give priority to assisting, where necessary and requested, the tripartite constituents to implement the national plan of action for decent work. In this regard, ILO capacity in the region should be strengthened. Further, the delegates express the hope that other member States in the region will respond positively to requests for technical assistance and advice to replicate or adapt their own best practices for the benefit of less advanced countries.

20. To facilitate the design, implementation and monitoring of national plans of action for decent work, the delegates request the Office to establish a regularly updated website which reflects actions and activities undertaken in each country in pursuit of the decent work agenda, both by the Office and the constituents. In this connection, the delegates call upon the Office to design, as soon as possible, appropriate measures for collecting information annually and disseminating this to all constituents, including qualitative assessment of the effectiveness of ILO activities in the region.

21. As regards elements of the decent work agenda which are most appropriately dealt with at the subregional and regional levels, the delegates invite the tripartite constituents to consider the establishment of corresponding subregional or regional forums to design and implement appropriate programmes. The Office should include information on such programmes in the web site mentioned above.

## **9. Conclusions, 14<sup>th</sup> Asian Regional Meeting, Busan, 2006**

[...]

Priorities for national action

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11. We affirm our commitment to tangible outcomes and practical measures for the implementation of time-bound policies and programmes for the realization of full and productive employment and decent work for all.

12. Interconnected priorities for realizing decent work and the reduction of poverty in countries of the region, during the coming decade are:

- promoting ratification of core labour standards as well as respect for fundamental principles and rights at work;
- promoting sustainable productivity growth and competitive economies;
- promoting job creation;
- promoting decent work opportunities in the informal economy, especially in the rural sector;
- promoting access to education for all, including targeted relevant education, training and lifelong learning to ensure appropriate skills to enhance on going employability;
- promoting decent work opportunities and access to entrepreneurship for young women and men, especially through facilitating the school-to-work transition and the sharing of good practices;
- strengthening the capacity of the social partners and labour administration;
- combating all forms of child labour as defined under ILO Conventions Nos 138 and 182;
- improving dialogue and the management of labour migration so as to benefit both sending and receiving countries and better protect the rights and equal treatment of migrant workers;
- improving effective labour market governance by adopting, implementing and reviewing labour laws and social policies against the objectives of full and productive work sought by the Decent Work Agenda;
- developing labour management cooperation and bipartite partnership mechanisms and other appropriate institutions and regulations, including frameworks for social dialogue, as important elements for the effective and fair functioning of labour markets;
- promoting gender equality by, inter alia, empowering women by promoting equality of opportunity to decent and productive work;
- according special attention to the needs of vulnerable workers, including those with disabilities, victims of trafficking and forced labour, those affected by HIV/AIDS, indigenous peoples and workers in workplaces where their fundamental rights are denied;
- extending the effectiveness and coverage of social protection for all, including workers in the informal economy;
- promoting occupational safety and health.

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13. Acknowledging the integrated nature of the Decent Work Agenda, we endorse a coherent and integrated approach to such policies and programmes, closely involving the social partners in local economic development efforts.

[...]

## **10. Conclusions, 15<sup>th</sup> Asia and the Pacific Regional Meeting, Bangkok, 2011**

*Inclusive and sustainable development for Asia and the Pacific through decent work for all*

1. We pay tribute to the courage and resilience of the Japanese people in recovering from the massive human losses of the Great East Japan earthquake and its consequences.

2. We thank the Japanese Government and social partners for their warm welcome and excellent organization of the Meeting so soon after the national tragedy and, by our presence here in Kyoto, express our solidarity to the Japanese people especially in the disaster-affected areas.

3. We appreciate the special session organized by the Government of Japan during the Meeting, which enabled us to draw important lessons on disaster response with a particular focus on employment policy.

4. We also express our gratitude that Prime Minister Noda honoured us by addressing the opening session of our Meeting.

5. We thank the Director-General for his report entitled “Building a sustainable future with decent work in Asia and the Pacific”, and the supplementary report which provides an update of more recent developments in the region and argues for moving towards new, more efficient patterns of growth with social justice.

6. We pay tribute to the ILO’s Director-General, Juan Somavia, who is attending the last Asia and the Pacific Meeting during his tenure, for his unwavering support to the development of the region and his tremendous contribution to the advancement of the Decent Work Agenda worldwide.

### **I. TAKING STOCK SINCE THE 2006 REGIONAL MEETING**

7. It is five years since we launched the programme for an Asia and Pacific Decent Work Decade at our last meeting in Busan in 2006. We have taken stock of progress in following up our Busan commitments and while recognizing important achievements, many challenges both old and new lie ahead in realizing our goal of Decent Work for All.

8. We have moved forward in making decent work a central objective in national development strategies and in improving labour market governance, including strengthening governance frameworks to promote gender equality. Sixty-eight

Conventions were ratified by Asia–Pacific Members since August 2006, however ratification and implementation of ILO core Conventions remains lower than in other regions. Awareness and action on the rights of migrant workers is greater today, although they remain some of the most vulnerable of our region’s workers. Investment in social protection systems in combating child labour and in providing greater skills to our young women and men has increased. From two Decent Work Country Programmes (DWCPs) in 2007, we now have 20 active DWCPs and another 21 under development, including six in the Pacific. They cover a range of activities including employment policies, vocational



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training systems, capacity building of the social partners, occupational safety and health, and eliminating child labour.

9. The five years since our Busan Meeting have also witnessed many large-scale natural disasters in the region – floods, earthquakes, tsunamis, cyclones and typhoons. As Japan has recently confirmed, employment and social policies are an important part of the planning for disaster prevention and response and are an increasingly important issue for ILO cooperation in the region.

*Dynamic region facing huge challenges*

10. Asia and the Pacific is the world's most dynamic region. Fast growth in a number of countries has lifted family incomes and enabled hundreds of millions of people to escape severe poverty.

11. Yet even in the periods of fastest growth, we have not generated enough decent work to reduce our large numbers of working poor and huge informal economies.

12. Within a generation, Asia and the Pacific has made dramatic economic progress. The region is increasingly integrated into the global economy, with all the opportunities and challenges that competing on the international market brings.

13. In the aftermath of the global economic and jobs crisis, the region quickly rebounded. But now, renewed financial turmoil in other parts of the world again threatens our economic and social development.

14. Even before the crisis, fast growth was unevenly spread and inequalities in income and wealth widened in many economies. Many hundreds of millions have risen above the lowest threshold of poverty, yet the region still accounts for 73 per cent of the world's working poor. Many remain vulnerable to natural and human-made shocks and disasters. Social protection systems do not yet cover effectively many of our people, despite recent important progress.

15. We are an extremely diverse region and cooperation for development, taking this into account, is vital to our future.

*Meeting the demand for decent work*

16. Our region is the world's most populous and has a fast-growing labour force, whose enormous productive potential we must enlarge and utilize to eradicate poverty by progressively diminishing the scale of informal economies and encouraging the creation of decent jobs.

17. Gender discrimination, especially unequal treatment and opportunities for women in the world of work, remains a major concern in our societies and must be addressed as a priority in order to reap the social and economic benefits of gender equality.

18. Migrant workers, both those moving from rural to urban areas within countries and those crossing borders, are helping to build our region's prosperity but are among the most vulnerable to exploitation and discriminatory treatment.

19. Asia and the Pacific have the highest number of workers engaged in domestic work. Despite their crucial role in the economic functioning of societies, domestic workers, especially migrants, are particularly vulnerable to poor working conditions and human rights abuses.

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20. Too many among our huge population of young women and men cannot find a decent job that is so vital to their chances of a decent life. But paradoxically, millions of boys and girls in the region who should be in school are working.

21. Some countries in the region face the problem of an ageing population and a smaller working-age population.

22. We are also increasingly aware of the impact economic development is having on our often fragile natural environment. Efforts across the region to address the effects of climate change and the greening of our economies hold great potential for increased opportunities for decent work.

23. The decent work opportunities our region needs will be created if businesses are able to operate in, and together with workers, take advantage of a sustainable economic and social environment.

*Dialogue and cooperation for reform and continued progress*

24. Recent developments in some Arab States underline the consequences of social exclusion, lack of decent jobs and the denial of fundamental rights. Widespread demands for social justice, dignity, decent jobs, respect for fundamental rights and an end to economic exclusion have highlighted the importance of the Decent Work Agenda.

25. International labour standards are important for helping countries and their citizens to become more inclusive socially, economically and politically. Social dialogue is important both to settle disputes and also to cooperate on agreed ways forward to grow sustainable enterprises, enlarge decent work opportunities, build social protection systems and establish employment arrangements that protect workers' rights.

26. We will intensify our promotion of ratification and implementation of core labour standards as well as respect for fundamental principles and rights at work.

27. Social dialogue and cooperation are the watchwords for our renewed drive to meet the needs of ILO constituents and fulfil the goals of the Asia and Pacific Decent Work Decade through national, regional and global action. DWCPs should adequately reflect tripartite constituents' priority setting, engagement and ownership. We commit to accelerate the expansion and implementation of DWCPs across the region through a series of concrete and practical measures specified to varying national conditions, based on and around the four pillars of the Decent Work Agenda.

28. Governments, Employers and Workers of the Asia–Pacific region reaffirm their commitment to the Asia and the Pacific Decent Work Decade, initiated at the 14th Asian Regional Meeting.

29. Taking into account developments since constituents last convened, these conclusions address the further implementation of the Asia and the Pacific Decent Work Decade through to 2015.

## II. NATIONAL POLICY PRIORITIES FOR THE ASIA AND THE PACIFIC DECENT WORK DECADE

30. Building on the 2006 Asia and the Pacific Decent Work Decade, the following policy priorities for the period up to 2015 are shared by the diverse countries of our region. Their application may vary according to national circumstances. Social dialogue is key to ensuring the quality and effectiveness of policy design and implementation. Promoting gender equality across these policy fields is also essential.

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*Economic, employment and social policies*

31. Working to ensure that decent work and full employment are at the heart of policies for strong, sustainable and balanced growth and inclusive development.

32. Designing policy packages, based on the ILO's Global Jobs Pact, to promote an equitable jobs-rich strategy.

33. Promoting increased productivity across the economy as a foundation for increasing decent work opportunities, raising incomes and improving living and working conditions.

34. Promoting collective bargaining and the development of minimum wage systems based on ILO standards.

35. Reducing poverty and wide inequalities in income and wealth.

36. Building effective social protection floors, in line with national circumstances.

37. Supporting the participation of ILO's tripartite constituents in national high-level discussions on economic, employment and social policy design and implementation, recognizing the need for policy coherence.

38. Encouraging relevant global and regional institutions to support making decent work and full employment an important goal of internationally and regionally coordinated macroeconomic policies.

*Sustainable enterprises, productive employment and skills development*

39. Improving the enabling environment for sustainable enterprises is important to creating the decent work opportunities our region needs.

40. Promoting a well-designed transparent, accountable and well-communicated regulatory environment for business, including regulations that uphold labour and environmental standards.

41. Promoting the use of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

42. Promoting entrepreneurship, including for young women and men.

43. Promoting quality public services and the social economy, including cooperatives.

44. Boosting rural and agricultural development consistent with decent work.

45. Building the capacity to produce, collect, analyse and disseminate labour market statistics, including sex-disaggregated information, to inform evidence-based policy-making.

46. Strengthening employment services systems.

47. Strengthening employment-intensive investment, where necessary, for example through public employment guarantee schemes that are consistent with the creation of decent work.

48. Implementing measures to address the challenge of creating opportunities for young women and men to enter into sustainable employment and decent work.

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49. Equipping the workforce, particularly young people, with the skills required for decent work and productive employment.

50. Continuing to focus on integrated strategies to facilitate the transition of informal economy workers and enterprises into the mainstream economy and the improvement of incomes and working conditions.

51. Promoting greener growth and green jobs, consistent with maintaining economic and social sustainability.

52. Improving occupational safety and health.

53. Improving disaster preparedness and response capacity with a particular focus on the employment and social dimensions of relief and reconstruction.

*Rights at work and social dialogue*

54. Intensifying efforts to ratify and implement core labour standards as well as ILO governance Conventions.<sup>50</sup>

55. Strengthening respect for freedom of association and collective bargaining as enabling mechanisms to productive social dialogue.

56. Supporting and, where necessary, building up social dialogue institutions and procedures for preventing and resolving disputes.

57. Enhancing the capacity of workers' and employers' organizations to engage in social dialogue and collective bargaining.

58. Making full use of social dialogue to anticipate and address labour market changes, including those that will come with the transition to low-carbon economies.

59. Supporting labour inspection as a crucial tool for ensuring enforcement of laws including those regarding occupational safety and health, minimum wages and other working conditions.

60. Expanding technical assistance and cooperation on labour migration, including dialogue and bilateral agreements between origin and destination countries to improve recruitment practices and protect migrants' rights, and promoting ILO instruments on migration and the Domestic Workers Convention, 2011 (No. 189), and the accompanying Domestic Workers Recommendation, 2011 (No. 201).

61. Intensifying efforts to address the needs of vulnerable workers, including those with disabilities, girls and boys in child labour, victims of trafficking and forced labour, those affected by HIV and AIDS, indigenous peoples and workers in workplaces where their fundamental rights are denied.

### III. ILO ACTION

62. In the light of the Meeting's identification of the policy priorities for the remainder of the Decade, the Office will:

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<sup>50</sup> Labour Inspection Convention, 1947 (No. 81), Employment Policy Convention, 1964 (No. 122), Labour Inspection (Agriculture) Convention, 1969 (No. 129), Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

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- (a) review its work programmes in support of constituents;
  - (b) intensify collaboration with regional and international organizations including the Asian Development Bank (ADB) and the United Nations in Asia and the Pacific with the full involvement of the social partners to promote full and productive employment and decent work for all;
  - (c) develop collaborative efforts with the relevant national and regional organizations to promote policy coherence and undertake joint research to promote action on the priorities identified above;
  - (d) monitor, advise and report on progress in implementing the above priorities and initiatives and those decided at the 14th Asian Regional Meeting; and
  - (e) evaluate the effectiveness of the above priorities and initiatives in delivering decent work to inform deliberations at the 16th Asia and the Pacific Regional Meeting.

63. Furthermore, we call upon the Governing Body of the ILO to instruct the Office to assist, as appropriate and upon request, efforts of the tripartite constituents in the Asia and the Pacific Decent Work Decade.

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## Labour Inspection

### 1. *Resolution concerning Labour Inspection, Nuwara Eliya, 1950*<sup>51</sup>

Whereas the laws and regulations for the protection of workers can be effective only to the extent that they are implemented, and implementation calls for the establishment of adequate enforcement machinery;

Whereas experience has shown that such machinery should comprise a labour inspectorate, technically competent, sufficiently numerous and of high status;

Reaffirming the recommendations made at the Asian Regional Conference, held at New Delhi in October-November 1947, that the Asian Members of the International Labour Organisation should ratify the Labour Inspection Convention, 1947; that the Convention should also be applied to the non-metropolitan territories in Asia in accordance with the provisions of Articles 30 and 31 thereof; and that the provisions of the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947, should be applied as a first step where the provisions of the Labour Inspection Convention, 1947, cannot be applied immediately to non-metropolitan territories, and

Taking note of the findings of the Preparatory Conference on Labour Inspection in Asian Countries, held at Kandy, Ceylon, in November 1948,

The Asian Regional Conference of the International Labour Organisation,

Having met at Nuwara Eliya, Ceylon,

Adopts this twenty-fourth day of January 1950 the following resolution:

1. (1) With a view to enabling the labour inspection services to discharge their functions adequately, the Asian Members of the Organisation should accord to the labour inspectorates a status among the social services of the State commensurate with their responsibilities, and should undertake all appropriate measures to inform employers and workers, and the public in general, of problems arising from working conditions and remedial measures taken or needed, as well as to advise employers and workers in regard to effective means of complying with existing labour legislation.

(2) In addition to the customary channels of propaganda and public education, such as the press, radio and films, these measures should include the institution of national health and safety exhibits and museums.

(3) These education and propaganda activities should be carried out through the medium of the vernacular of the country and through literature designed to educate the worker and make him acquainted with national laws and regulations.

2. (1) In the absence of voluntary bodies or private organisations to supplement the work of labour inspection services by research in and promotion of improved industrial standards and conditions of work, the Government should wherever practicable institute national research centres for the study of industrial problems, and should encourage the establishment of joint bodies of employers and workers to co-operate in the task of determining and implementing accepted standards.

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<sup>51</sup> Adopted on 24 January 1950.

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(2) Such bodies may be organised, as appropriate, on a plant or industry basis, or on a regional or national basis.

3. In order to ensure that labour inspection services are staffed with officials fully competent to carry out the duties of the service, appropriate steps should be taken to secure the training of new inspectors upon their admission to the service and to keep labour inspectors fully informed of latest developments in respect of industrial problems of health, safety and welfare by means of technical training centres, refresher courses for inspectors and periodical conferences of inspectors.

4. Appropriate arrangements should be made to promote direct collaboration between officials of labour inspection services and employers and workers or their organisations.

5. (1) With a view to enabling countries in an early phase of economic development to give full effect to the foregoing recommendations progressively, the possibilities of international or regional arrangements in these matters, when and where appropriate, should be fully explored.

(2) Arrangements might be concluded, for example, whereby inspection officials of less developed services would be sent for training to other countries with more adequate training courses and facilities in the region or outside the region.

(3) The fullest consideration should also be given to the possibility of making arrangements among the Asian countries to establish 'one or more regional centres for the training of labour inspectors.

(4) In addition, the possibility of encouraging technical missions from abroad to assist Asian countries in the organisation of their inspection services should be considered.

6. (1) Having regard to the expansion and development of social and labour legislation in the Asian countries, the authorities concerned should keep under constant review the need for ensuring that the numerical strength of inspection services and the facilities at their disposal are adequate to the tasks they have to perform.

(2) The inspection services should include an adequate number of women inspectors.

7. Since adequate statistical data are an essential aid in the enforcement of labour and social legislation, appropriate provision should be made in the organisation of labour departments so as to enable them to discharge their functions of collecting basic labour statistics.

8. (1) The International Labour Organisation should be equipped to give advice and assistance on an expanded scale to Asian Governments in the organisation of labour inspection services.

(2) Full advantage should be taken of the facilities available through the International Labour Organisation to achieve the purposes of this resolution.

## **2. *Resolution concerning Conferences of Representatives of Asian Inspection Services, Nuwara Eliya, 1950***<sup>52</sup>

The Asian Regional Conference of the International Labour Organisation, Having met at Nuwara Eliya, Ceylon,

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<sup>52</sup> Adopted on 24 January 1950.

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Adopts this twenty-fourth day of January 1950 the following resolution:

The Conference welcomes the practice of convening, when appropriate, regional meetings of representatives of labour inspection services, such as that held at Kandy, Ceylon, in November 1948, in preparation for the present Conference, and recommends to the Governing Body of the International Labour Office that similar technical meetings should be convened at such intervals in Asian centres as may appear to the Governing Body to be necessary in the light of the reports furnished by Members of the Organisation in connection with the Labour Inspection Convention, 1947. The progress made in giving effect to the recommendations contained in the resolution concerning labour inspection might form a suitable basis of discussion at the next conference of representatives of Asian inspection services.





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## European Regional Conferences and Meetings

### Labour Administration

#### 1. **Resolution concerning employment policy and environmental protection, 4<sup>th</sup> European Regional Conference, Geneva, 1987**

The Fourth European Regional Conference of the International Labour Organisation,

Having met in Geneva from 15 to 22 September 1987,

Noting with concern that, despite the creation of new jobs, the unemployment situation is unacceptably high in most European countries and that serious long-term unemployment is affecting many categories of workers,

Recalling the Preamble of the Constitution of the International Labour Organisation and the Declaration of Philadelphia which affirms that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”,

Bearing in mind article 23 of the Universal Declaration of Human Rights which states that “everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”,

Considering that the achievement in practice of the right to freely chosen work is a necessary condition for society’s economic and social progress,

Considering that international détente, the development of economic co-operation and mutually advantageous trade, and the implementation of measures to promote employment are prerequisites for lasting peace and the solution of social problems in the interests of the workers and peoples of the European continent,

Considering that new technologies are being introduced in many countries and affirming that this requires careful consideration and examination of consequences for the labour market,

Emphasising that in structural adjustment, effective tripartite co-operation is of fundamental importance,

Convinced that through judicious policy measures at the national and international level a positive link can be established between the requirements of environmental protection and employment creation,

Considering that only employment compatible with health and a sound environment is practicable employment for the future,

Considering that environmental protection measures at the national level are essential but not -sufficient, since pollution does not stop at national borders, and that therefore close international co-operation is also needed to protect the environment and to ensure a positive effect of environmental measures on employment,

Having noted the publication in April 1987 of the report of the World Commission on Environment and Development, entitled *Our common future*;

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1. Invites the Governing Body of the International Labour Office to call upon the governments of European member States to:

- (a) promote effective policies aimed at full employment, fully implementing the Employment Policy Convention, 1964 (No. 122), and Recommendation, 1964 (No. 122), and the Employment Policy (Additional Provisions) Recommendation, 1984 (No. 169);
- (b) stimulate private and public investment taking into account the requirements and employment-creating potential of environmental protection and encourage investments in key areas, such as clean air, soil and water programmes, public transport, rational use of energy, waste disposal, recycling of used materials, environment supervision, nature preservation, countryside protection, improvement of housing areas, which would create jobs as well as protect the environment;
- (c) stimulate the industrial restructuring of enterprises which constitute a burden on the environment in order to enable them to attain the necessary environmental standards as rapidly as possible and at the same time, as far as possible, to maintain or increase the number of jobs through the restructuring process;
- (d) strengthen European and international co-operation in the fields of environmental protection and improve co-ordination of economic policies for full employment, in particular in order to reduce and, as much as possible, eliminate trans-border pollution, as well as to prevent or minimise the environmental effects of industrial accidents.

2. Invites the Governing Body of the International Labour Office to urge the governments and employers' and workers' organisations of the European member States to pursue, through effective tripartite machinery, employment promotion as a priority objective together with the humanisation of work and a clean and healthy environment.

3. Invites the Governing Body of the International Labour Office to instruct the Director- General:

- (a) to intensify action to assist member States in their economic and social development, particularly in promoting job creation;
- (b) to prepare a study analysing the obstacles encountered by member States in achieving full employment and maintaining income levels;
- (c) to undertake a study into the inter-relationship between environmental protection and sustainable development and employment creation, the results of which should be presented to a tripartite meeting of experts for the formulation of appropriate guide-lines.

**2. *Resolution concerning employment and tripartism in Europe,  
5<sup>th</sup> European Regional Meeting, Warsaw, 1995***

The Fifth European Regional Conference of the International Labour Organization,

Having met in Warsaw from 20 to 27 September 1995,

Expressing deep concern at the persistence of high levels of unemployment in Europe, aggravated by widespread underemployment in countries in transition,

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Stressing that current levels of unemployment are unacceptable, wasteful, and a serious threat to the social cohesion of countries in a region which faces mounting tensions and even tragic civil conflict,

Recognizing that major social and political change in Central and Eastern Europe, the continuing process of European integration, and more intensive competition under rapidly changing conditions in the global economy require concerted international cooperation and appropriately framed national policies in the struggle against unemployment,

Welcoming the commitments of the World Summit for Social Development to promoting the goal of full employment as a basic priority of economic and social policies with full respect for workers' rights and the participation of employers' and workers' organizations, to fostering international cooperation, and to coordinating macroeconomic policies to promote sustainable economic growth and job creation,

Endorsing in particular the Summit's call for enhancement of the quality of work and employment through full respect of ILO Conventions on basic workers' rights, and the use of existing international labour standards to guide the formulation of national labour legislation and policies,

Convinced that concerted tripartite action at the national and international levels is of crucial importance in formulating and implementing employment policies which command sufficient support to address successfully the adjustment needs of European economies and which can reconcile necessary labour market adjustments with a high level of job security and worker protection,

Stressing the need to strengthen tripartism through the important and autonomous role of the social partners in collective bargaining which enables the implementation of full employment policies,

Stressing also that the benefits of tripartism do not derive from the mere existence of formal structures, but rather from genuine commitment to cooperation involving all relevant government ministries with a real impact on policy outcomes,

Considering that priority objectives of tripartite consultation should be to promote faster economic growth, to increase the number of jobs thus generated, and to make special provision for the jobless and, in particular, for the long-term unemployed and other seriously disadvantaged groups in the labour market,

Recognizing that sustainable employment results from economic activity that safeguards and enhances the environment, and the job-creating potential of environmental protection;

1. Calls on governments and, where appropriate, workers' and employers' organizations:

- (a) to restate their commitment to genuine tripartite consultation and cooperation as an important factor in the fight against unemployment;
- (b) to consider ratifying and implementing the Employment Policy Convention, 1964 (No. 122);
- (c) to act, in conformity with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), in order to strengthen both employers' and workers' organizations and to promote collective bargaining as a means of

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achieving both economic efficiency and social justice, thus also strengthening tripartite cooperation;

- (d) to ensure national concerted action on the commitments made at the World Summit for Social Development in respect of the promotion of full employment and to ensure tripartite consultation on the follow-up to those commitments;
- (e) to cooperate internationally in the coordination of macroeconomic policies and the development of sound growth strategies favouring the creation of employment and the respect for environment and setting the framework within which active labour market policies can be effective;
- (f) to strengthen national and regional policies geared towards the achievement of durable and sustainable development and a return to full employment, taking into account the need for:
  - (i) the creation of quality jobs; eradication of poverty and prevention of social exclusion; an adequate level of social protection and an improved quality of life through better working conditions and environment;
  - (ii) increased productivity and improved competitiveness of the economy; fostering entrepreneurship and the creation of new enterprises, a skilled workforce and, in general, more responsive labour markets;
- (g) to improve the efficiency of the public service as a supporting element for economic policies in the creation of jobs and which also responds to the individual and collective needs of citizens and contributes to the development of a caring society ready to combat poverty and social exclusion;
- (h) to contribute actively to guaranteeing peace on the continent and to strengthening international cooperation on the basis of democracy and social justice so that the well-being of the world population continues to be the main objective of economic and monetary policies and technological progress.

2. Invites the Governing Body to instruct the Director-General:

- (a) to ensure that the role of tripartism in promoting full employment in Europe is given full attention in ILO activities, including in future editions of the World Employment Report, and in particular in the implementation of the commitments undertaken at the World Summit for Social Development;
- (b) to ensure that ILO technical services continue to be made available to constituents in all relevant fields of national and European employment policy and industrial relations systems;
- (c) to use its influence with relevant international organizations so that they contribute to the objectives of full, productive and freely chosen employment in Europe;
- (d) to present early proposals for the convening of a tripartite meeting to review developments since the Tripartite Symposium on New Perspectives for Tripartism in Europe, held in Brussels in April 1992 and to consider further action to follow up this process more regularly at the regional level and to reinforce tripartite cooperation for full employment in Europe.

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### **3. Conclusions, 6<sup>th</sup> European Regional Meeting, Geneva, 2000**

[...]

#### *Fostering tripartism and social dialogue*

22. Ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and its appropriate implementation should have a high priority, not least as a means to encourage tripartite mechanisms. Tripartite subregional and regional exchanges of views on labour and social issues can also strengthen such mechanisms while providing balanced guidance on policy questions.

23. Reform of labour legislation should continue, whenever necessary in transition economy countries, so that fundamental and pragmatic elements of constructive tripartite and bipartite social dialogue are fully recognized and implemented. ILO's contribution to this process is considered of fundamental importance in the countries concerned, and should be continued and strengthened.

24. In the light of the resolution adopted at the Warsaw Regional Conference (September 1995), governments that have not yet taken the necessary measures are reminded that they should facilitate by all means (including tax deductions) policies that ease the expansion of membership in employers' and workers' organizations.

[...]

### **4. Conclusions, 7<sup>th</sup> European Regional Meeting, Budapest, 2005**

[...]

#### *Social dialogue, tripartism and reform*

25. Employment, labour and social policies are in the midst of major reform debates throughout the region. Globalization presses for economic and social reforms but no reforms can be successful without strong social dialogue, including free and unconstrained collective bargaining and tripartite and bipartite consultations. National solutions to common problems are needed, through dialogue and consultations, based on ILO principles and labour standards, in particular Conventions Nos. 87, 98 and 144.

26. Governments should facilitate the work of organizations of employers and of workers, strictly applying principles of freedom of association and voluntary membership, and refraining from interference that could restrict the right to freely join those organizations.

Independence, democracy and representativity are essential for effective social dialogue.

27. In the light of the resolution adopted at the Warsaw Regional Conference in 1995, and reiterated at the Sixth European Regional Meeting in 2000, governments that have not yet taken the necessary measures are reminded that they should facilitate by all means (including tax deductions) policies that stimulate the expansion of membership of free and independent employers' and workers' organizations.

28. Economic and social reforms and the promotion of decent work for all call for robust social dialogue to arrive at genuine solutions adapted to the changing conditions in a globalized economy.

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[...]

*Labour administration*

31. Across the region the capacity of labour administrations is increasingly constrained by declining financial and human resources. Within the framework of national legislation, effective labour administration and/or tribunals in the area of working conditions, occupational safety and health, observance of wage agreements, labour inspection, vocational training and employment services is essential to sound industrial relations and good economic, social and labour outcomes. Governments are reminded of the importance of well functioning labour administrations for decent work. The ILO is requested to strengthen its support of labour administration.

[...]

## **5. Conclusions, 8<sup>th</sup> European Regional Meeting, Lisbon, 2009**

[...]

*(v) Social dialogue*

34. Counteracting the adverse impact of the recession on labour market conditions and contributing to recovery efforts requires well-designed policies and programmes appropriate to specific country situations. Social dialogue at appropriate levels from the workplace to the national, as determined by the parties, is an important mechanism for developing broad-based support and commitment to efforts to overcome the crisis and build a better future for working women and men.

35. The Meeting heard encouraging reports of a wide variety of social pacts and labour agreements reached despite the pressures of economic setbacks. Given the interdependence of economic and social conditions, the need for various forms of international dialogue is increasing within multinational enterprises, at sectoral level and in relation to coordinated recovery measures.

36. The Meeting stressed that good labour–management relations can help to mitigate hardship, facilitate recovery measures and contribute to fair sharing of adjustment costs. Crisis-related measures have been increasingly on the agenda of the tripartite and bipartite negotiations and consultations since the beginning of this year; collective bargaining can help overcome difficult situations related to restructuring in many enterprises.

37. Labour administration and inspection services should be maintained and, if necessary, strengthened and modernized. Responsive and well-qualified labour administration and inspection services provide protection for workers and support responsible employers in meeting labour standards. Furthermore their advice can help improve working conditions, productivity and competitiveness. They are needed more than ever during an economic slowdown.

[...]

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## Labour Inspection

### 1. ***Resolution concerning the Improvement of Working Conditions and the Working Environment in Europe, 3<sup>d</sup> European Regional Conference, Geneva, 1979***

The Third European Regional Conference of the International Labour Organisation,  
Meeting in Geneva from 16 to 25 October 1979,

Recalling that in a resolution concerning future action of the ILO in the field of working conditions and environment, adopted at its 60th Session (1975), the General Conference of the ILO solemnly reaffirmed that the improvement of working conditions and environment and the well-being of workers remains the first and permanent mission of the ILO and requested the launching of an international programme for the improvement of working conditions and environment which is designed to promote or support activities of member States in this field,

Recalling the existence of the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), and bearing in mind that the topic of safety and health and the working environment will be considered at the 66th and 67th Sessions of the International Labour Conference,

Noting with satisfaction that the new international programme of the ILO, known as PI ACT, has been operational since November 1976, and that its principal objectives are to ensure that work respects the worker's life and health, that it leaves him free time for rest and leisure; and that it enables him to serve society and achieve self-fulfilment by developing his personal capacities,

Noting that PI ACT aims at linking the various activities undertaken in member States within an international framework designed to orient, stimulate and support them with appropriate means,

Considering, in this respect, that it is necessary to give PI ACT a "European dimension" as was noted by the ILO Governing Body when it placed the question of "Policies and practices for the improvement of working conditions and working environment in Europe" on the agenda of the present Conference,

Taking note of the report prepared by the International Labour Office to serve as a basis for the examination of this question,

Considering that this European dimension of PI ACT requires knowledge of the problems which exist in this field and of the relevant activities of the European member States of the ILO and those of the ILO and other international and regional organisations concerned,

Pleased that the action undertaken within the framework of PI ACT is linked, on the one hand, with that carried out under the auspices of the United Nations Environment Programme leading to the establishment of a co-ordinated action programme of the United Nations system for the improvement of the working environment and, on the other hand, with the activities of various European regional organisations,

Considering that this European dimension of PI ACT should reflect the growing determination of European countries to be open, both within themselves and in their relations with the rest of the world, to the changes rendered necessary by the evolution of



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international trade, technologies and production methods as well as by the legitimate aspirations of workers for a better quality of working life,

Considering as well that this dimension should be put into effect, both at national level and at that of the ILO, by constructive and co-ordinated action by all those who can contribute to the improvement of working conditions and the working environment and should promote, in particular, the most active possible participation of employers, workers and their organisations,

Supporting the recently increasing standard-setting activity of the ILO in the field of protection of the worker in his working environment,

Considering that in spite of differences in their level of economic and social development which occasionally require different approaches concerning solutions to problems of working conditions and the working environment, the States of the European region have already proceeded in this respect to positive accomplishments concerning which it would be desirable for them to have opportunities to intensify their exchange of views and of experiences,

Considering in particular that the rapid development of technology in European countries and other parts of the world may lead to new potential hazards for the worker in his working environment, due to factors such as harmful substances, dust, noise, a harmful micro-climate, radiation and vibration,

Stressing that when designing and introducing new technology and techniques, appropriate measures to protect against accidents and harm to the worker's health should be considered and taken into account,

Noting that, in spite of the considerable efforts made in all member States, the decrease in accident rates at work and diseases connected with work has not been as significant as would have been desirable, and noting that comparison of statistical data is often difficult,

Convinced that improving working conditions and the protection of the worker in the course of his work must be of great concern to the competent authorities, employers, workers and their organisations, planners, designers of new technologies, manufacturers of tools, machines, equipment and products, as well as national institutes for labour protection,

Recognising that the improvement of the various aspects of working conditions and the working environment is of fundamental importance for the protection of the worker's life, health, well-being and for his job satisfaction, for the efficiency of production systems and for society as a whole;

Adopts this day this resolution on the action to be taken in European member States of the ILO and by the ILO itself concerning the improvement of working conditions and the working environment in Europe.

#### A. ACTION AT NATIONAL LEVEL

##### *Occupational Safety and Health*

1. Occupational safety and health policies and programmes in the European region should be progressively reinforced to further reduce the incidence and severity of occupational accidents and diseases, including work-related diseases which are not scheduled for social security purposes.

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2. A coherent policy of preventing accidents and diseases in the working environment should be appropriately linked to a comprehensive preventive strategy at the national level. It should include investigatory and other measures to prevent the introduction of substances, machines and installations in the working environment which may have harmful effects on workers. It should include means to regulate the marketing of industrial and commercial equipment that does not conform to safety, health and ergonomie standards. As occupational hazards which are unrecognised remain uncontrolled, constant vigilance should be exercised to identify, analyse, and evaluate occupational safety and health hazards and to determine appropriate corrective action. Standards should be established for harmful substances and agents, particularly those that are effectively or potentially carcinogenic.

3. At the national level, policies for the effective management of the working environment must be fully supported by comprehensive legislation and specific regulations corresponding to different aspects of determined needs. Employers' and workers' representatives should be consulted in the drawing up of occupational safety and health legislation. The application and monitoring of occupational safety and health policies, legislation and programmes require the establishment of appropriate institutional arrangements. Labour inspection remains an essential element of enforcement. Its effects are best achieved when the use of statutory powers is balanced by advisory functions and co-operative efforts.

4. In the European countries, tripartite machinery involving governments, employers' and workers' organisations should continue to work together to frame and monitor the application of national, comprehensive occupational safety and health policies and programmes. Special ways should be sought to furnish occupational safety and health measures and services for the small and medium enterprises.

5. Planning for safe and healthy working and subsequent supervision is part of the over-all responsibility of the employers. They should consider safe work as an integral part of production. Occupational safety and health should be incorporated in the planning of enterprise construction, design of machinery, production processes, and equally in the training of workers at all levels as an integral part of job training. In introducing a new process, employers should also try to obtain all available information about possible hazards involved.

6. The establishment of occupational health services and safety departments should be promoted to advise all parties within the enterprise, in accordance with established procedures, on particular safety and health problems, and to supervise the application of safety and health protective measures. The requisite personnel for these services must have adequate professional education and training and be given an appropriate independent status.

7. To encourage workers' attitudes and motivation in support of enterprise safety systems, all workers must be fully informed about all potential dangers associated with their work. Thus education, training and information on occupational safety and health are of considerable importance both for management and for workers. Education on safety and health should start at school. Education in occupational hazards and their prevention should be incorporated in vocational training and continue throughout working life. This should not be restricted to the transmission of knowledge on safe working practices; it should also include information on every substance which might be handled, on the potential hazards of production processes, on possible dangers in the general working environment, on the correct use and maintenance of protective clothing and equipment, on the correct operation of machinery, and on emergency action to be taken in dangerous situations.

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8. Measures to improve safety and health at work and the working environment cannot be considered as static and determined once and for all. Improvements in these fields are indeed dynamic processes. Potential hazards from any cause must first be identified as such; then the ways to eliminate or control them must be determined. While in Europe much is already known about occupational hazards, there are still gaps in knowledge requiring in-depth investigations.

These relate inter alia to the production and use of harmful chemical substances, to the use of ionising and non-ionising radiation, to work in extreme atmospheric temperatures, to work related diseases, to the early detection of morbidity in man, and to the combined effects of several hazards affecting workers simultaneously.

9. A major part of the effort to improve safety and health at work should include research for various purposes and the transmission of findings to the competent authorities, employers, workers and specialised personnel. Research and information systems require adequate funding, effective management and co-ordination at both the national and the regional level. Within Europe, national and subregional co-ordination bodies concerned with safety and health and the working environment have been established. Further progress in the wider utilisation and dissemination of essential information might be achieved through improving access to data banks by all parties interested in information on the effects of substances, machines and work processes on the safety and health of workers.

10. To foster safety, health and hygiene at the enterprise level, workers should co-operate fully in the day-to-day implementation of safety plans utilising all safety measures prescribed by law and placed at their disposal by the enterprise. This process includes the following of safe working methods according to agreed rules and safety instructions. The creation of safety and health committees, the appointment of safety representatives, procedures for consultations and, where appropriate, collective bargaining, should be promoted as they present effective vehicles for workers' participation with employers in improving the working environment and in promoting safety and health at work. Workers and their representatives should have, according to national practice, adequate facilities, rights and information to enable them to fulfil their task during working hours, and to influence the elaboration and the daily implementation of safety, health and hygiene plans.

#### *Working Time*

11. The Conference notes that, in certain European countries, the trade unions demand a reduction in hours of work in order to ensure a better distribution of work. Apart from that consideration, the Conference underlines that the progressive reduction of the working time, long recognised as an important factor of social progress, should continue to be considered as an important objective in national policies, including collective bargaining, for improving the quality of working life, in view of its positive effects on the physical and mental health and the well-being of workers. The need to maintain the competitiveness of the economies of the various countries and to preserve or restore full employment should be borne in mind. The Conference recommends in particular that in European countries the possibility should be examined of promoting with priority the reduction of the working time for particular groups of workers, e.g. those who are exposed to harmful factors.

12. The reduction of normal hours of work should not result in increased work-loads. In order for it to be accompanied by a corresponding reduction in actual hours worked, measures should be considered with a view to limiting excessive recourse to overtime and to eliminating moonlighting.

13. Measures should be considered to provide opportunities for part-time work to those who wish it. Part-time workers should benefit, in all aspects of their working life,

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from protection analogous to that enjoyed by full-time workers, account being taken where appropriate of their reduced hours of work. The introduction of part-time work should not be to the disadvantage of full-time workers.

14. All parties concerned should co-operate to find adequate measures to reduce the travelling time of workers between their areas of residence and their workplaces.

#### *Work Organisation*

15. The Conference underlines the key role of work organisation in all areas of improving working conditions and the working environment and its additional importance in promoting the worker's well-being and fulfilment and the efficiency of production systems.

16. Policies to improve the quality of working life through work organisation should take into account the following factors—

- (a) The rising skills, educational levels and expectations of the workers in general;
- (b) The wide range of individual and group preferences concerning the organisation of their work and the content of their jobs;
- (c) the need for increasingly effective production systems;
- (d) the need to increase worker interest and commitment to work while reducing absenteeism, turnover and poor work quality;
- (e) the possible negative effects of automation and computerisation as well as their positive potential;
- (f) the possible contributions of improved work organisation to full utilisation of the workers' abilities and qualifications, a more suitable pace of work, reduced fatigue and stress, greater job satisfaction, increased worker participation and involvement and lower accident rates.

17. In order to accelerate progress in improving work organisation, governments, employers and workers and their organisations should take action to overcome the obstacles to further development, in particular—

- (a) the failure to meet certain preconditions, such as good labour-management relations, the financial capacity of enterprises, receptivity to new ideas and sufficient flexibility of national regulations;
- (b) difficulties in reducing the traditional division between work design, preparation, execution and supervision;
- (c) the occasional lack of an adequate framework of rules and support on the part of society to ensure the active collaboration of workers at shop-floor level and at other levels at which normal consultations are carried out;
- (d) insufficient training of both managers and workers in introducing and implementing work organisation improvements;
- (e) the occasional lack of a sufficiently integrated, comprehensive approach to job improvement taking jointly into consideration such fields as occupational hygiene, engineering, ergonomics, psycho-physiology and sociology;

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- (f) frequent failure to consider work organisation at a sufficiently early stage in the design of products, machinery, equipment and workplaces.

18. During the design and implementation of new forms of work organisation as well as during organisational changes resulting from the introduction of new equipment or technologies, particular advantage should be taken of the views and experience of those at the workplace itself: employers, supervisors and workers and their representatives.

19. In their efforts to ensure the best possible work for all workers, employers should fully take into account the fact that measures taken to this end can involve a reduction in their production costs following reductions in absenteeism and turnover and an increase in the quality of products.

20. When the employer considers changes in work organisation, production methods or equipment, he should, in advance, fully consult the workers and/or their organisations so that they can have an influence over decisions taken in this respect. Workers and/or their representatives should have the right and the means to be informed, to receive adequate training and to be able to discuss these questions, including where appropriate through collective bargaining. The adoption of new forms of work organisation and new production techniques and the participation of workers and their representatives in decisions taken on these matters should not lead to unfavourable repercussions on their wages, status or employment; national practice should be taken into account in this respect.

21. In this search for better methods of work organisation, although there is not one method which can be considered best, particular attention should be given to—

- (a) the progressive reduction of fragmented, repetitive and monotonous work;
- (b) the progressive elimination of work processes and standards which are excessively demanding or dangerous;
- (c) the promotion of jobs which stimulate the workers' creativity and fully engage their personal capacities;
- (d) the need to prevent, particularly in the tertiary sector, unfavourable consequences to job content from increased use of computers and micro-processors;
- (e) the adaptation of jobs to the special needs of certain categories of workers.

22. Although improvements in work organisation should be sought above all at specific workplaces, governments could usefully intervene through—

- (a) seeing that the legislative framework tends to ensure the active participation of workers and employers and to encourage improvements which take due account of the complex relations among various job characteristics, production techniques and methods of improvement;
- (b) the encouragement and financing of research on the relations between organisation of work and technological choices and the improvement of working conditions and the working environment;
- (c) the provision of financial support for worthwhile improvements;
- (d) the support of exchanges of information and experience;
- (e) the systematic evaluation of trends, problems and the degree of improvement.

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23. Improvements in work organisation should mean, in general, the provision of an adequate number of jobs with desirable characteristics, and a choice for each worker of a job meeting his or her needs and aspirations. It is therefore extremely important that the implications for work organisation be taken into consideration in the formulation of employment, manpower, training and technology policy, both within the enterprise and in the economy as a whole.

#### *National Policies*

24. In order to obtain the best possible results in the three areas enumerated above, the Conference underlines the necessity for European countries to elaborate and apply an active and co-ordinated policy for the improvement of working conditions and the working environment as an integral part of their economic, labour, educational, social and public health policies. This policy should pursue a number of definite objectives and should be endowed with a set of legislative, institutional and other means appropriate to assure the realisation of these objectives within a reasonable period of time.

25. Employers, workers and their organisations should be closely associated with the formulation and implementation of national policies for the improvement of working conditions and the working environment. To this end, measures should be taken when necessary to remove any obstacles which may still remain to the appropriate functioning of the mechanisms assuring the free exercise of the right to organise and the participation of organisations of employers and workers.

26. The national policies mentioned in the preceding paragraph should aim at improving the working environment not only in its material or physical dimensions but in its psycho-social dimensions as well. To this end, they should aim at articulating more closely the too-often separated fields of occupational safety and health with other conditions of work through a sufficiently comprehensive approach which takes into consideration all the factors susceptible of having negative effects on the physical and mental health and well-being of workers. Such policies should also be based on more precise knowledge of the relations between the quantity and structure of employment and the quality of jobs and should promote, on that basis, fuller collaboration between the national services responsible for labour inspection and employment placement.

27. Measures should be taken to adapt legislation and regulations constantly to new hazards to the physical and mental health of workers brought about by technological development and to take account of new knowledge of hazards. National legislation should take inspiration from the ILO standards on this question, establish the main principles to be observed, while preferably leaving to free negotiation between social partners the fixing of detailed formulae adapted to diverse work situations, and promote at actual worksites initiatives which call for increased participation of workers and their representatives.

28. National policies for the improvement of working conditions and the working environment should give priority to the continuous strengthening, both quantitatively and qualitatively, of the respective roles of labour administration and the labour inspectorate.

29. These policies should be based on as precise as possible knowledge of problems and on an appropriate evaluation of the economic and social costs and benefits, with regard to both their internal and external effects, of the various kinds of measures which are likely to contribute to their solution. The information gathered for this purpose should be widely disseminated to those principally responsible for the improvement of working conditions and the working environment, in this case the enterprises and the organisations of employers and workers, in order to increase their awareness and promote their initiatives.

30. These policies should also be put into effect through a substantial reinforcement, both quantitatively and qualitatively, of education and training activities concerning

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working conditions and environment. It would be appropriate, to this end, to strengthen education and training programmes specifically concerning working conditions and the working environment and to introduce elements referring to working conditions and the working environment in other education and training programmes, for example, those concerning vocational training, management training, training of labour administrators and workers' education.

31. The competent national authorities should examine the advisability of setting up or strengthening specific institutions or programmes charged with—

- (a) the promotion of research, dissemination of information and training on working conditions and the working environment;
- (b) the provision of appropriate financial and technical support to initiatives undertaken or envisaged at enterprise level with a view to the improvement of working conditions and the working environment.

Priority should be given to the realisation of concrete programmes of action concerning carcinogenic substances.

32. Measures should be taken, within the framework of the national policies referred to in this section, in order to ensure that equal rights are taken into account for certain groups of workers, such as women workers, young workers, older workers, handicapped workers and migrant workers. Concerning this last category of workers, governments are invited to give full effect to the provisions of the resolution concerning migrant workers adopted by the International Labour Conference at its 65th Session (1979), especially in order to ensure the observance of the principles contained in the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which refer to the equality of opportunity and treatment which should be enjoyed by migrant workers, in particular in the field of conditions of work.

## B. ACTION AT ILO LEVEL

33. The Conference invites the Governing Body of the ILO to request the Director-General to intensify, through PI ACT, the action of the Office directed at helping European States to set definite objectives and to develop policies and programmes of action for the improvement of working conditions and the working environment through such means as—

- (a) promotional action designed—
  - (i) to encourage the ratification and/or application by European States of international labour standards relating to working conditions and the working environment, particularly those which the Governing Body considered should be given priority attention by member States;
  - (ii) to give full effectiveness to point 37 of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;
- (b) in the light of the conclusions of the Governing Body in-depth review of international labour standards, selection of items concerning aspects of working conditions and environment which are of particular interest, with a view to their inclusion in the agenda of the forthcoming sessions of the International Labour Conference and the adoption of new or revised standards aimed at guiding member States of the ILO in the development of their policies in this field;

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- (c) inviting member States to introduce or broaden a system of certifying, or ensuring by other means, the adequacy from the point of view of occupational safety and health, of industrial units, new types of production techniques, instruments, machinery, equipment, and other means of production which may affect the workers;
  - (d) continuing use of industrial committees and analogous meetings to promote the systematic examination of questions relating to the improvement of working conditions and the working environment, and widely disseminating the conclusions adopted;
  - (e) systematic collection and dissemination of meaningful information and development of comparable statistics on these matters, especially through the strengthening of the International Occupational Safety and Health Information Centre (CIS) —which already constitutes an authoritative data bank on these questions —and the launching of an international Clearinghouse of Information on the Quality of Working Life;
  - (f) acceleration of the operational development of the International Occupational Safety and Health Hazard Alert System recently created by the ILO and reinforcing substantially the means at its disposal;
  - (g) support of international co-operation in the field of designing and producing means of individual protection and other equipment protecting persons from the consequences of occupational risks;
  - (h) development of international co-operation in Europe, in particular by—
    - (i) organising meetings at the European level providing for an international exchange of views and experiences on various aspects of working conditions and the working environment, in accordance with wishes expressed in this regard by European member States, or granting technical support for the organisation of such meetings by member States themselves;
    - (ii) organising study tours permitting government executives, managers of enterprises, officials and members of employers' and workers' organisations and managers of research and training institutions to evaluate on the spot in other European countries the projects undertaken to improve working conditions and the working environment;
    - (iii) promoting better co-ordination and allocation of tasks among the various national institutions and organisations engaged in research of working conditions and the working environment, especially through the organisation of periodic meetings permitting European countries to make greater use of the results of this research and to launch new research on particularly current topics, such as the effects of various forms of automation on conditions and quality of work;
    - (iv) promoting appropriate policies and programmes for training and the advancement of knowledge in the field of working conditions and working environment, for example by organising one or several meetings in which persons responsible for conducting training activities in this field would have an opportunity to compare the content of training being provided and the methods employed;
    - (v) convening in the near future a tripartite meeting on labour inspection--



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- (a) intensification of technical advisory services and technical co-operation activities in order to assist governments, organisations of employers and workers and other institutions concerned to develop programmes and carry out activities directed at the improvement of working conditions and the working environment;
  - (b) publication of comparative studies on questions relating to the latest and most progressive solutions affecting various aspects of working conditions and the working environment, and particularly occupational safety.

34. In certain fields where problems are particularly widespread and acute, such as the hazards linked with the production of various forms of energy and the production and use of harmful substances, the ILO should particularly see to the combined utilisation of the above means of action with a view to achieving the best possible results.

35. In the carrying out of this programme of action, the ILO should aim at—

- (a) strengthening its links with European regional organisations, such as the Economic Commission for Europe, the Commission of the European Communities, the European Foundation for the Improvement of Living and Working Conditions, the Council of Europe, the Nordic Council of Ministers, the Council for Mutual Economic Assistance and the World Health Organisation's Regional Office for Europe, as well as the Organisation for Economic Co-operation and Development, with a view to ensuring closer co-ordination and avoidance of overlapping between its own activities on working conditions and the working environment and those undertaken by those regional organisations;
- (b) maintaining close co-operation with governments and employers' and workers' organisations at the national and subregional level;
- (c) developing the collaboration between the ILO and regional organisations in Europe in order to encourage greater harmonisation of national policies and legislation on working conditions and the working environment, including, in appropriate cases, by organising joint meetings charged with formulating tripartite orientations on labour policies in the countries concerned.

36. Noting the intention of the Governing Body expressed in 1976 to proceed to a tripartite international evaluation of PIACT after its first five years, the Conference underlines the desirability of such an evaluation and expresses the wish that its preparation include, among other things, the convening of smaller meetings at the regional level, particularly in Europe.