

ILO LAW ON FREEDOM OF ASSOCIATION

Standards and procedures

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Horacio GUIDO

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PREFACE

Respect for freedom of association around the world is a fundamental and unavoidable requirement for the International Labour Organization, because of its most essential structural characteristic, namely tripartism, and the important responsibilities based on the Constitution and ILO instruments that employers' and workers' organizations are called upon to exercise within the Organization itself as well as in the different member States.

Without freedom of association or, in other words, without employers' and workers' organizations that are autonomous, independent, representative and endowed with the necessary rights and guarantees for the furtherance and defence of the rights of their members and the advancement of the common welfare, the principle of tripartism would be impaired, if not ignored, and chances for greater social justice would be seriously prejudiced.

As the Declaration of Philadelphia reaffirms, freedom of association — in this context, trade union freedom — is "essential to sustained progress", and "the war against want requires to be carried out with unrelenting vigour *within each nation, and 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".¹ The application of these principles, concluded the Declaration of Philadelphia, "is a matter of concern to the whole civilized world".

¹ Our italics.

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From this perspective, as freedom of association is one of the principles safeguarding peace and social justice, it is entirely understandable, on the one hand, that the ILO has adopted a series of Conventions (with a very high rate of ratification of the most fundamental ones),² Recommendations and resolutions which form the most important international source on this subject, and, on the other hand, that in addition to the general supervisory procedures a special procedure has been created for the effective protection of trade union rights which allows not only governments of member States but also employers' and workers' organizations to submit complaints against governments, including those that have not ratified the Conventions on freedom of association.³

This special procedure was the result of negotiations and agreements between the ILO Governing Body and the Economic and Social Council of the United Nations that gave rise to the establishment of the Fact-Finding and Conciliation Commission on Freedom of Association in 1950; subsequently, in 1951 the Governing Body established the Committee on Freedom of Association. Without doubt, the Committee on Freedom of Association is the international body that plays the leading role at the world level in the promotion and defence of freedom of association. The extraordinary diversity of cases presented by the employers' and workers' organizations (more than 1,800), its tripartite composition with an independent chairperson, the possibility of dealing with complaints against States which have not ratified ILO Conventions on freedom of association and collective bargaining, the guarantees of impartiality provided for in its procedures, the promptness in dealing with cases, the unanimity of its decisions and the formation of a body of principles concerning fundamental freedom of association issues which develop and complement ILO standards in this area, are particularly original features in the world of international law which have conferred on the Committee a special authority and credibility that has been emphasized as the years have progressed.

In this manner, beyond the effectiveness of the recommendations of the Committee in different specific cases (death penalty not applied, freeing of trade unionists, reversal of decisions to dissolve trade unions, restitution of trade union property, etc.), the principles defined on the basis of the Conventions, Recommendations and resolutions of the International Labour Conference have been able to guide legislation, act as a reference

² As of 15 September 1994 the Freedom of Association and Protection of the Right to Organize Convention, 1949 (No. 98), had received 124 ratifications.

³ Based solely on their membership of the International Labour Organization, member States must respect the principles contained in its Constitution, including those relating to freedom of association.

point for judgements, inspire the work of labour inspectorates and guide the search for solutions of major labour disputes.

We wish to thank the Freedom of Association Branch and in particular Mr. Alberto Otero and Mr. Horacio Guido, officials of this Branch, for this publication,⁴ which gathers together virtually all ILO texts on freedom of association and collective bargaining, and sets out the different procedures which can be put into motion to promote their application.

Finally, we wish to stress the happy coincidence that this publication — which is the fruit of cooperation between the International Labour Standards Department and the Bureau for Workers' Activities — appears just after the 75th anniversary of the International Labour Organization, highlighting the invaluable contribution of the Organization and of its supervisory bodies to the cause of freedom of association as a privileged means of attaining greater social justice, and, through this, to the cause of peace.

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Labour Standards Department

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⁴ The English text was prepared and translated from the Spanish original by Don Kidd, an official of the Labour Law Information Branch of the International Labour Standards Department.

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PART1

ILO STANDARDS ON RIGHTS CONCERNING
FREEDOM OF ASSOCIATION
AND INDUSTRIAL RELATIONS

1

ILO CONSTITUTIONAL TEXTS CONCERNING FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

(extracts)

CONSTITUTION AND DECLARATION OF PHILADELPHIA

Text of the Constitution¹

PREAMBLE

Whereas universal and lasting peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures;

¹ The date of the text of the Constitution is 1919, although it was amended subsequently on several occasions.

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Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, and with a view to attaining the objectives set forth in this Preamble, agree to the following Constitution of the International Labour Organization:

CHAPTER I - ORGANIZATION

Article 1

1. A permanent organization is hereby established for the promotion of the objects set forth in the Preamble to this Constitution and in the Declaration concerning the aims and purposes of the International Labour Organization adopted at Philadelphia on 10 May 1944 the text of which is annexed to this Constitution.

Article 3

1. The meetings of the General Conference of representatives of the Members shall be held from time to time as occasion may require, and at least once in every year. It shall be composed of four representatives of each of the Members, of whom two shall be Government delegates and the two others shall be delegates representing respectively the employers and the workpeople of each of the Members.

2. Each delegate may be accompanied by advisers, who shall not exceed two in number for each item on the agenda of the meeting. When questions specially affecting women are to be considered by the Conference, one at least of the advisers should be a woman.

5. The Members undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.

8. The names of the delegates and their advisers will be communicated to the International Labour Office by the government of each of the Members.

9. The credentials of delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by

the delegates present, refuse to admit any delegate or adviser whom it deems not to have been nominated in accordance with this article.

² Articles 5 and 26 of the Standing Orders of the International Labour Conference govern the *procedures for objections* to the credentials of delegates and advisers as follows:

Article 5 Credentials

Committee

1. The Conference shall, on the nomination of the Selection Committee, appoint a Credentials Committee consisting of one Government delegate, one Employers' delegate and one Workers' delegate.

2. The Credentials Committee shall examine the credentials of delegates and their advisers, and any objection relating thereto, in accordance with the provisions of Section B of Part II.

Article 26

1. The credentials of delegates and their advisers shall be deposited with the International Labour Office at least 15 days before the date fixed for the opening of the session of the Conference.

2. A brief report upon these credentials, drawn up by the Chairman of the Governing Body shall, with the credentials, be open to inspection by the delegates on the day before the opening of the session of the Conference and shall be published as an appendix to the record of the first sitting.

3. The Credentials Committee appointed by the Conference in pursuance of article 5 of the Standing Orders of the Conference shall consider any objection concerning the nomination of any delegate or adviser which may have been lodged with the Secretary-General.

4. An objection shall not be receivable in the following cases:

- (a) if the objection is not lodged with the Secretary-General within 72 hours from 10 o'clock a.m. of the date of the publication in the *Provisional Record* of the name and function of the person to whose nomination objection is taken: Provided that the above time-limit may be extended by the Credentials Committee in the case of objections concerning the nomination of a delegate or adviser from a distant country;
- (b) if the authors of the objection remain anonymous;
- (c) if the author of the objection is serving as adviser to the delegate to whose nomination objection is taken;
- (d) if the objection is based upon facts or allegations which the Conference, by a debate and a decision referring to identical facts or allegations, has already discussed and recognized to be irrelevant or devoid of substance.

5. The procedure for the determination of whether an objection is receivable shall be as follows:

- (a) the Credentials Committee shall consider in respect of each objection whether on any of the grounds set forth in paragraph 4 the objection is irreceivable;
- (b) if the Committee reaches a unanimous conclusion concerning the receivability of the objection, its decision shall be final;
- (c) if the Credentials Committee does not reach a unanimous conclusion concerning the receivability of the objection, it shall refer the matter to the Conference which shall, on being furnished with a record of the Committee's discussions and with a report setting forth the opinion of the majority and minority of its members, decide without further discussion whether the objection is receivable.

Declaration of Philadelphia

The General Conference of the International Labour Organization meeting in its Twenty-sixth Session in Philadelphia, hereby adopts, this tenth day of May in the year nineteen hundred and forty-four, the present Declaration of the aims and purposes of the International Labour Organization and of the principles which should inspire the policy of its Members.

I

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that —

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigour within each nation, and 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.

II

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that —

² (Continuation of the note)

6. In every case in which the objection is not declared irreceivable, the Credentials Committee shall consider whether the objection is well-founded and shall as a matter of urgency submit a report thereon to the Conference.

7. If the Credentials Committee or any member thereof submits a report advising that the Conference should refuse to admit any delegate or adviser, the President shall submit this proposal to the Conference for decision, and the Conference, if it deems that the delegate or adviser has not been nominated in conformity with the requirements of the Constitution, may, in accordance with paragraph 9 of article 3 thereof, refuse by two-thirds of the votes cast by the delegates present to admit the delegate or adviser. Delegates who are in favour of refusing to admit the delegate or adviser shall vote "Yes"; delegates who are opposed to refusing to admit the delegate or adviser shall vote "No".

8. Pending final decision of the question of his admission, any delegate or adviser to whose nomination objection has been taken shall have the same rights as other delegates and advisers.

- (a) 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;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
- (e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

III

The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

- (a) full employment and the raising of standards of living;
- (b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) the effective recognition of the right of collective bargaining, 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;
- (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;

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- (g) adequate protection for the life and health of workers in all occupations;
- (h) provision for child welfare and maternity protection;
- (i) the provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) the assurance of equality of educational and vocational opportunity.

IV

Confident that the fuller and broader utilization of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full cooperation of the International Labour Organization with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world.

2

CONVENTIONS AND RECOMMENDATIONS CONCERNING FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

(substantive provisions)

Right of Association (Agriculture) Convention, 1921 (No. 11)

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 Third Session on 25 October 1921, and

Having decided upon the adoption of certain proposals with regard to the rights of association and combination of agricultural workers, which is included in the fourth item of the agenda of the Session, and

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

adopts the following Convention, which may be cited as the Right of Association (Agriculture) Convention, 1921, for ratification by the Members of the International Labour Organization in accordance with the provisions of the Constitution of the International Labour Organization:

Article 1

Each Member of the International Labour Organization which ratifies this Convention undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.

**Right of Association (Non-Metropolitan Territories) Convention, 1947
(No. 84)**

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 Thirtieth Session on 19 June 1947, and

Having decided upon the adoption of certain proposals concerning the right of association and the settlement of labour disputes 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 Right of Association (Non-Metropolitan Territories) Convention, 1947:

Article 1

This Convention applies to non-metropolitan territories.

Article 2

The rights of employers and employed alike to associate for all lawful purposes shall be guaranteed by appropriate measures.

Article 3

All practicable measures shall be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organizations.

Article 4

All practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of arrangements for the protection of workers and the application of labour legislation.

Article 5

All procedures for the investigation of disputes between employers and workers shall be as simple and expeditious as possible.

Article 6

1. Employers and workers shall be encouraged to avoid disputes, and if they arise to reach fair settlements by means of conciliation.

2. For this purpose all practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of conciliation machinery.

3. Subject to the operation of such machinery, public officers shall be responsible for the investigation of disputes and shall endeavour to promote conciliation and to assist the parties in arriving at a fair settlement.

4. Where practicable, these officers shall be officers specially assigned to such duties.

Article 7

1. Machinery shall be created as rapidly as possible for the settlement of disputes between employers and workers.

2. Representatives of the employers and workers concerned, including representatives of their respective organizations, where such exist, shall be associated where practicable in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by the competent authority.

Article 8

1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization 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 Organization 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 its 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 decisions.

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 subparagraph (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 14, 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 9

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 Organization in respect of any territory which is under their joint authority; or
- (b) by an 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 14, 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 10

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 11

If any Convention which may subsequently be adopted by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any territory in respect of which there has been communicated to the Director-General of the International Labour Office a declaration —

- (a) undertaking that the provisions of the said Convention shall be applied in pursuance of paragraph 2 of article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization Instrument of Amendment, 1946, or
- (b) accepting the obligations of the said Convention in pursuance of paragraph 5 of the said article 35.

Article 12

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

**Freedom of Association and Protection of the Right to Organize
Convention, 1948 (No. 87)**

The General Conference of the International Labour Organization,

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

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organize, which is the seventh item on the agenda of the session,

Considering that the Preamble to the Constitution of the International Labour Organization declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace,

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress",

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation,

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organization to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty-eight, the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organize Convention, 1948:

PART I. FREEDOM OF ASSOCIATION

Article 1

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

Article 2

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

Article 3

1. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full free dom, to organize their administration and activities and to formulate their programmes.

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

Article 4

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

Article 5

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

Freedom of association and collective bargaining

Article 6

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

Article 7

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

Article 8

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

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

Article 9

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

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

Article 10

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

PART II. PROTECTION OF THE RIGHT TO ORGANIZE

Article 11

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

PART III. MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organization as amended by the Constitution of the International Labour Organization 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 Organization which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its 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 Conventions 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 this 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 13

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 Organization 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 16, communicate to the Director-General of the International Labour Office 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.

Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

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 Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organize and to bargain collectively, which is the fourth item on the agenda of the session, and

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

adopts this first day of July of the year one thousand nine hundred and forty-nine, the following Convention, which may be cited as the Right to Organize and Collective Bargaining Convention, 1949:

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

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2. Such protection shall apply more particularly in respect of acts calculated to —

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

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

Article 4

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

Article 5

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

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

Article 6

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

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 Organization 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. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of article 35 of the Constitution of the International Labour Organization shall indicate —

- (a) the territories in respect of which the Member concerned 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 decisions pending further consideration of the position.

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 reservation made in its original declaration in virtue of subparagraph (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 11, 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 10

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of article 35 of the Constitution of the International Labour Organization 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.

2. 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.

3. 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 11, 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.

Workers' Representatives Convention, 1971 (No. 135)

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 Fifty-sixth Session on 2 June 1971, and

Noting the terms of the Right to Organize and Collective Bargaining Convention, 1949, which provides for protection of workers against acts of anti-union discrimination in respect of their employment, and

Considering that it is desirable to supplement these terms with respect to workers' representatives, and

Having decided upon the adoption of certain proposals with regard to protection and facilities afforded to workers' representatives in the undertaking, which is the fifth item on the agenda of the session, and

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

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-one, the following Convention, which may be cited as the Workers' Representatives Convention, 1971:

Article 1

Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Article 2

1. Such facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

2. In this connection account shall be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

3. The granting of such facilities shall not impair the efficient operation of the undertaking concerned.

Article 3

For the purpose of this Convention the term "workers' representatives" means persons who are recognized as such under national law or practice, whether they are —

- (a) trade union representatives, namely representatives designated or elected by trade unions or by members of such unions; or
- (b) elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

Article 4

National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which shall be entitled to the protection and facilities provided for in this Convention.

Article 5

Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ensure that the existence of elected representatives

is not used to undermine the position of the trade unions concerned or their representatives and to encourage cooperation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

Article 6

Effect may be given to this Convention through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

Workers' Representatives Recommendation, 1971 (No. 143)

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 Fifty-sixth Session on 2 June 1971, and

Having adopted the Workers' Representatives Convention, 1971, and

Having decided upon the adoption of certain proposals with regard to protection and facilities afforded to workers' representatives in the undertaking, 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-third day of June of the year one thousand nine hundred and seventy-one, the following Recommendation, which may be cited as the Workers' Representatives Recommendation, 1971:

I. METHODS OF IMPLEMENTATION

1. Effect may be given to this Recommendation through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

II. GENERAL PROVISIONS

2. For the purpose of this Recommendation the term "workers' representatives" means persons who are recognized as such under national law or practice, whether they are —

- (a) trade union representatives, namely representatives designated or elected by trade unions or by the members of such unions; or
- (b) elected representatives, namely representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose

functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

3. National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which should be entitled to the protection and facilities provided for in this Recommendation.

4. Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures should be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage cooperation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

III. PROTECTION OF WORKERS' REPRESENTATIVES

5. Workers' representatives in the undertaking should enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

6. (1) Where there are not sufficient relevant protective measures applicable to workers in general, specific measures should be taken to ensure effective protection of workers' representatives.

(2) These might include such measures as the following:

- (a) detailed and precise definition of the reasons justifying termination of employment of workers' representatives;
- (b) a requirement of consultation with, an advisory opinion from, or agreement of an independent body, public or private, or a joint body, before the dismissal of a workers' representative becomes final;
- (c) a special recourse procedure open to workers' representatives who consider that their employment has been unjustifiably terminated, or that they have been subjected to an unfavourable change in their conditions of employment or to unfair treatment;
- (d) in respect of the unjustified termination of employment of workers' representatives, provision for an effective remedy which, unless this is contrary to basic principles of the law of the country concerned, should include the reinstatement of such representatives in their job, with payment of unpaid wages and with maintenance of their acquired rights;

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- (e) provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was justified;
- (f) recognition of a priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce.

7. (1) Protection afforded under Paragraph 5 of this Recommendation should also apply to workers who are candidates, or have been nominated as candidates through such appropriate procedures as may exist, for election or appointment as workers' representatives.

(2) The same protection might also be afforded to workers who have ceased to be workers' representatives.

(3) The period during which such protection is enjoyed by the persons referred to in this Paragraph may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

8. (1) Persons who, upon termination of their mandate as workers' representatives in the undertaking in which they have been employed, resume work in that undertaking should retain, or have restored, all their rights, including those related to the nature of their job, to wages and to seniority.

(2) The questions whether, and to what extent, the provisions of subparagraph (1) of this Paragraph should apply to workers' representatives who have exercised their functions mainly outside the undertaking concerned should be left to national laws or regulations, collective agreements, arbitration awards or court decisions.

IV. FACILITIES TO BE AFFORDED TO WORKERS' REPRESENTATIVES

9.(1) Such facilities in the undertaking should be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

(2) In this connection account should be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

(3) The granting of such facilities should not impair the efficient operation of the undertaking concerned.

10. (1) Workers' representatives in the undertaking should be afforded the necessary time off from work, without loss of pay or social and fringe benefits, for carrying out their representation functions in the undertaking.

(2) In the absence of appropriate provisions, a workers' representative may be required to obtain permission from his immediate supervisor or another appropriate representative of management designated for this purpose before he takes time off from work, such permission not to be unreasonably withheld.

(3) Reasonable limits may be set on the amount of time off which is granted to workers' representatives under subparagraph (1) of this Paragraph.

11.(1) In order to enable them to carry out their functions effectively, workers' representatives should be afforded the necessary time off for attending trade union meetings, training courses, seminars, congresses and conferences.

(2) Time off afforded under subparagraph (1) of this Paragraph should be afforded without loss of pay or social and fringe benefits, it being understood that the question of who should bear the resulting costs may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.

12. Workers' representatives in the undertaking should be granted access to all workplaces in the undertaking, where such access is necessary to enable them to carry out their representation functions.

13. Workers' representatives should be granted without undue delay access to the management of the undertaking and to management representatives empowered to take decisions, as may be necessary for the proper exercise of their functions.

14. In the absence of other arrangements for the collection of trade union dues, workers' representatives authorized to do so by the trade union should be permitted to collect such dues regularly on the premises of the undertaking.

15. (1) Workers' representatives acting on behalf of a trade union should be authorized to post trade union notices on the premises of the undertaking in a place or places agreed on with the management and to which the workers have easy access.

(2) The management should permit workers' representatives acting on behalf of a trade union to distribute news sheets, pamphlets, publications and other documents of the union among the workers of the undertaking.

(3) The union notices and documents referred to in this Paragraph should relate to normal trade union activities and their posting and distribution should not prejudice the orderly operation and tidiness of the undertaking.

(4) Workers' representatives who are elected representatives in the meaning of clause (b) of Paragraph 2 of this Recommendation should be given similar facilities consistent with their functions.

16. The management should make available to workers' representatives, under the conditions and to the extent which may be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation, such material facilities and information as may be necessary for the exercise of their functions.

17. (1) Trade union representatives who are not employed in the undertaking but whose trade union has members employed therein should be granted access to the undertaking.

(2) The determination of the conditions for such access should be left to the methods of implementation referred to in Paragraphs 1 and 3 of this Recommendation.

Rural Workers' Organizations Convention, 1975 (No. 141)

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 Sixtieth Session on 4 June 1975, and

Recognizing that the importance of rural workers in the world makes it urgent to associate them with economic and social development action if their conditions of work and life are to be permanently and effectively improved, and

Noting that in many countries of the world and particularly in developing countries there is massive underutilization of land and labour and that this makes it imperative for rural workers to be given every encouragement to develop free and viable organizations capable of protecting and furthering the interests of their members and ensuring their effective contribution to economic and social development, and

Considering that such organizations can and should contribute to the alleviation of the persistent scarcity of food products in various regions of the world, and

Recognizing that land reform is in many developing countries an essential factor in the improvement of the conditions of work and life of rural workers and that organizations of such workers should accordingly cooperate and participate actively in the implementation of such reform, and

Recalling the terms of existing international labour Conventions and Recommendations — in particular the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949—

which affirm the right of all workers, including rural workers, to establish free and independent organizations, and the provisions of numerous international labour Conventions and Recommendations applicable to rural workers which call for the participation, inter alia, of workers' organizations in their implementation, and

Noting the joint concern of the United Nations and the specialized agencies, in particular the International Labour Organization and the Food and Agriculture Organization of the United Nations, with land reform and rural development, and

Noting that the following standards have been framed in cooperation with the Food and Agriculture Organization of the United Nations and that, with a view to avoiding duplication, there will be continuing cooperation with that Organization and with the United Nations in promoting and securing the application of these standards, and

Having decided upon the adoption of certain proposals with regard to organizations of rural workers and their role in economic and social development, 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-third day of June of the year one thousand nine hundred and seventy-five, the following Convention, which may be cited as the Rural Workers' Organizations Convention, 1975:

Article 1

This Convention applies to all types of organizations of rural workers, including organizations not restricted to but representative of rural workers.

Article 2

1. For the purposes of this Convention, the term "rural workers" means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage-earner or, subject to the provisions of Paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

2. This Convention applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not —

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.

Article 3

1. All categories of rural workers, whether they are wage-earners or self-employed, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations, of their own choosing without previous authorization.

2. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.

3. The acquisition of legal personality by organizations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the provisions of the preceding paragraphs of this Article.

4. In exercising the rights provided for in this Article rural workers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.

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

Article 4

It shall be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

Article 5

1. In order to enable organizations of rural workers to play their role in economic and social development, each Member which ratifies this Convention shall adopt and carry out a policy of active encouragement to these organizations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organizations and their members as may exist.

2. Each Member which ratifies this Convention shall ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organizations.

Article 6

Steps shall be taken to promote the widest possible understanding of the need to further the development of rural workers' organizations and of the contribution they can make to improving employment opportunities and general conditions of work and life in rural areas as well as to increasing the national income and achieving a better distribution thereof.

Rural Workers' Organizations Recommendation, 1975 (No. 149)

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 Sixtieth Session on 4 June 1975, and

Recognizing that the importance of rural workers in the world makes it urgent to associate them with economic and social development action if their conditions of work and life are to be permanently and effectively improved, and

Noting that in many countries of the world and particularly in developing countries there is massive underutilization of land and labour and that this makes it imperative for rural workers to be given every encouragement to develop free and viable organizations capable of protecting and furthering the interests of their members and ensuring their effective contribution to economic and social development, and

Considering that such organizations can and should contribute to the alleviation of the persistent scarcity of food products in various regions of the world, and

Recognizing that land reform is in many developing countries an essential factor in the improvement of the conditions of work and life of rural workers and that organizations of such workers should accordingly cooperate and participate actively in the implementation of such reform, and

Recalling the terms of existing international labour Conventions and Recommendations — in particular the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949 — which affirm the right of all workers, including rural workers, to establish free and independent organizations, and the provisions of numerous international labour Conventions and Recommendations applicable to rural workers which call for the

participation, *inter alia*, of workers' organizations in their implementation, and

Noting the joint concern of the United Nations and the specialized agencies, in particular the International Labour Organization and the Food and Agriculture Organization of the United Nations, with land reform and rural development, and

Noting that the following standards have been framed in cooperation with the Food and Agriculture Organization of the United Nations and that, with a view to avoiding duplication, there will be continuing cooperation with that Organization and with the United Nations in promoting and securing the application of these standards, and

Having decided upon the adoption of certain proposals with regard to organizations of rural workers and their role in economic and social development, which is the fourth item on the agenda of the session, and

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

adopts this twenty-third day of June of the year one thousand nine hundred and seventy-five, the following Recommendation, which may be cited as the Rural Workers' Organizations Recommendation, 1975:

I. GENERAL PROVISIONS

1. (1) This Recommendation applies to all types of organizations of rural workers, including organizations not restricted to but representative of rural workers.

(2) The Cooperatives (Developing Countries) Recommendation, 1966, further remains applicable to the organizations of rural workers falling within its scope.

2. (1) For the purposes of this Recommendation, the term "rural workers" means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage-earner or, subject to the provisions of subparagraph (2) of this Paragraph, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

(2) This Recommendation applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not —

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.

3. All categories of rural workers, whether they are wage-earners or self-employed, should have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

II. ROLE OF ORGANIZATIONS OF RURAL WORKERS

4. It should be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

5. Such organizations should, as appropriate, be able to —

- (a) represent, further and defend the interests of rural workers, for instance by undertaking negotiations and consultations at all levels on behalf of such workers collectively;
- (b) represent rural workers in connection with the formulation, implementation and evaluation of programmes of rural development and at all stages and levels of national planning;
- (c) involve the various categories of rural workers, according to the interests of each, actively and from the outset in the implementation of —
 - (i) programmes of agricultural development, including the improvement of techniques of production, storing, processing, transport and marketing;
 - (ii) programmes of agrarian reform, land settlement and land development;
 - (iii) programmes concerning public works, rural industries and rural crafts;
 - (iv) rural development programmes, including those implemented with the collaboration of the United Nations, the International Labour Organization and other specialized agencies;
 - (v) the information and education programmes and other activities referred to in Paragraph 15 of this Recommendation;
- (d) Promote and obtain access of rural workers to services such as credit, supply, marketing and transport as well as to technological services;
- (e) play an active part in the improvement of general and vocational education and training in rural areas as well as in training for community development, training for cooperative and other activities of rural workers' organizations and training for the management thereof;

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- munity development, training for cooperative and other activities of rural workers' organizations and training for the management thereof;
- (f) contribute to the improvement of the conditions of work and life of rural workers, including occupational safety and health;
 - (g) promote the extension of social security and basic social services in such fields as housing, health and recreation.

III. MEANS OF ENCOURAGING THE GROWTH OF ORGANIZATIONS OF RURAL WORKERS

6. In order to enable organizations of rural workers to play their role in economic and social development, member States should adopt and carry out a policy of active encouragement to these organizations, particularly with a view to —

- (a) eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organizations and their members as may exist;
- (b) extending to rural workers' organizations and their members such facilities for vocational education and training as are available to other workers' organizations and their members; and
- (c) enabling rural workers' organizations to pursue a policy to ensure that social and economic protection and benefits corresponding to those made available to industrial workers or, as appropriate, workers engaged in other non-industrial occupations are also extended to their members.

7. (1) The principles of freedom of association should be fully respected; rural workers' organizations should be independent and voluntary in character and should remain free from all interference, coercion or repression.

(2) The acquisition of legal personality by organizations of rural workers should not be made subject to conditions of such a character as to restrict the application of the provisions of Paragraph 3 and subparagraph (1) of this Paragraph.

(3) In exercising the rights which they enjoy in pursuance of Paragraph 3 and of this Paragraph rural workers and their respective organizations, like other persons or organized collectivities, should respect the law of the land.

(4) The law of the land should not be such as to impair, nor should it be so applied as to impair, the guarantees provided for in Paragraph 3 and in this Paragraph.

A. Legislative and administrative measures

8. (1) Member States should ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organizations.

(2) In particular —

- (a) the principles of right of association and of collective bargaining, in conformity especially with the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949, should be made fully effective by the application to the rural sector of general laws or regulations on the subject, or by the adoption of special laws or regulations, full account being taken of the needs of all categories of rural workers;
- (b) relevant laws and regulations should be fully adapted to the special needs of rural areas; for instance —
 - (i) requirements regarding minimum membership, minimum levels of education and minimum funds should not be permitted to impede the development of organizations in rural areas where the population is scattered, ill-educated and poor;
 - (ii) problems which may arise concerning the access of organizations of rural workers to their members should be dealt with in a manner respecting the rights of all concerned and in accordance with the terms of the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Workers' Representatives Convention, 1971;
 - (iii) there should be effective protection of the rural workers concerned against dismissal and against eviction which are based on their status or activities as leaders or members of rural workers' organizations.

9. There should be adequate machinery, whether in the form of labour inspection or of special services, or in some other form, to ensure the effective implementation of laws and regulations concerning rural workers' organizations and their membership.

10. (1) Where rural workers find it difficult, under existing conditions, to take the initiative in establishing and operating their own organizations, existing organizations should be encouraged to give them, at their request, appropriate guidance and assistance corresponding to their interests.

(2) Where necessary, such assistance could on request be supplemented by advisory services staffed by persons qualified to give legal and technical advice and to run educational courses.

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11. Appropriate measures should be taken to ensure that there is effective consultation and dialogue with rural workers' organizations on all matters relating to conditions of work and life in rural areas.

12. (1) In connection with the formulation and, as appropriate, the application of economic and social plans and programmes and any other general measures concerning the economic, social or cultural development of rural areas, rural workers' organizations should be associated with planning procedures and institutions, such as statutory boards and committees, development agencies and economic and social councils.

(2) In particular, appropriate measures should be taken to make possible the effective participation of such organizations in the formulation, implementation and evaluation of agrarian reform programmes.

13. Member States should encourage the establishment of procedures and institutions which foster contacts between rural workers' organizations, employers and their organizations and the competent authorities.

B. Public information

14. Steps should be taken, particularly by the competent authority, to promote —

- (a) the understanding of those directly concerned, such as central, local and other authorities, rural employers and landlords, of the contribution which can be made by rural workers' organizations to the increase and better distribution of national income, to the increase of productive and remunerative employment opportunities in the rural sector, to the raising of the general level of education and training of the various categories of rural workers and to the improvement of the general conditions of work and life in rural areas;
- (b) the understanding of the general public, including, in particular, that in the non-rural sectors of the economy, of the importance of maintaining a proper balance between the development of rural and urban areas, and of the desirability, as a contribution towards ensuring that balance, of furthering the development of rural workers' organizations.

15. These steps might include —

- (a) mass information and education campaigns, especially with a view to giving rural workers full and practical information on their rights, so that they may exercise them as necessary;
- (b) radio, television and cinema programmes, and periodic articles in the local and national press, describing the conditions of life and work in rural areas and explaining the aims of rural workers' organizations and the results obtained by their activities;
- (c) the organization, locally, of seminars and meetings with the participation of representatives of the various categories of rural workers, of

employers and landlords, of other sectors of the population and of local authorities;

- (d) the organization of visits to rural areas of journalists, representatives of employers and workers in industry or commerce, students of universities and schools accompanied by their teachers, and other representatives of the various sectors of the population;
- (e) the preparation of suitable curricula for the various types and levels of schools appropriately reflecting the problems of agricultural production and the life of rural workers.

C. Education and training

16. In order to ensure a sound growth of rural workers' organizations and the rapid assumption of their full role in economic and social development, steps should be taken, by the competent authority among others, to —

- (a) impart to the leaders and members of rural workers' organizations knowledge of —
 - (i) national laws and regulations and international standards on questions of direct concern to the activity of the organizations, in particular the right of association;
 - (ii) the basic principles of the establishment and operation of organizations of rural workers;
 - (iii) questions regarding rural development as part of the economic and social development of the country, including agricultural and handicraft production, storing, processing, transport, marketing and trade;
 - (iv) principles and techniques of national planning at different levels;
 - (v) training manuals and programmes which are published or established by the United Nations, the International Labour Organization or other specialized agencies and which are designed for the education and training of rural workers;
- (b) improve and foster the education of rural workers in general, technical, economic and social fields, so as to make them better able both to develop their organizations and understand their rights and to participate actively in rural development; particular attention should be paid to the training of wholly or partly illiterate workers through literacy programmes linked with the practical expansion of their activities;
- (c) promote programmes directed to the role which women can and should play in the rural community, integrated in general programmes of education and training to which women and men should have equal opportunities of access;
- (d) provide training designed particularly for educators of rural workers, to enable them, for example, to help in the development of cooperative

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and other appropriate forms of servicing activities which would enable organizations to respond directly to membership needs while fostering their interdependence through economic self-reliance; (e) give support to programmes for the promotion of rural youth in general.

17. (1) As an effective means of providing the training and education referred to in Paragraph 16, programmes of workers' education or adult education, specially adapted to national and local conditions and to the social, economic and cultural needs of the various categories of rural workers, including the special needs of women and young persons, should be formulated and applied.

(2) In view of their special knowledge and experience in these fields, trade union movements and existing organizations which represent rural workers might be closely associated with the formulation and carrying out of such programmes.

D. Financial and material assistance

18. (1) Where, particularly in the initial stages of development, rural workers' organizations consider that they need financial or material assistance, for instance to help them in carrying out programmes of education and training, and where they seek and obtain such assistance, they should receive it in a manner which fully respects their independence and interests and those of their members. Such assistance should be supplementary to the initiative and efforts of rural workers in financing their own organizations.

(2) The foregoing principles apply in all cases of financial and material assistance, including those in which it is the policy of a member State to render such assistance itself.

Labour Relations (Public Service) Convention, 1978 (No. 151)

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 Sixty-fourth Session on 7 June 1978, and

Noting the terms of the Freedom of Association and Protection of the Right to Organize Convention, 1948, the Right to Organize and Collective Bargaining Convention, 1949, and the Workers' Representatives Convention and Recommendation, 1971, and

Recalling that the Right to Organize and Collective Bargaining Convention, 1949, does not cover certain categories of public employees and that the Workers' Representatives Convention

and Recommendation, 1971, apply to workers' representatives in the undertaking, and

Noting the considerable expansion of public-service activities in many countries and the need for sound labour relations between public authorities and public employees' organizations, and

Having regard to the great diversity of political, social and economic systems among member States and the differences in practice among them (e.g. as to the respective functions of central and local government, of federal, state and provincial authorities, and of state-owned undertakings and various types of autonomous or semi-autonomous public bodies, as well as to the nature of employment relationships), and

Taking into account the particular problems arising as to the scope of, and definitions for the purpose of, any international instrument, owing to the differences in many countries between private and public employment, as well as the difficulties of interpretation which have arisen in respect of the application of relevant provisions of the Right to Organize and Collective Bargaining Convention, 1949, to public servants, and the observations of the supervisory bodies of the ILO on a number of occasions that some governments have applied these provisions in a manner which excludes large groups of public employees from coverage by that Convention, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight, the following Convention, which may be cited as the Labour Relations (Public Service) Convention, 1978:

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.

2. The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

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

Article 2

For the purpose of this Convention, the term "public employee" means any person covered by the Convention in accordance with Article 1 thereof.

Article 3

For the purpose of this Convention, the term "public employees' organization" means any organization, however composed, the purpose of which is to further and defend the interests of public employees.

PART II. PROTECTION OF THE RIGHT TO ORGANIZE

Article 4

1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to —

- (a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organization;
- (b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organization or because of participation in the normal activities of such an organization.

Article 5

1. Public employees' organizations shall enjoy complete independence from public authorities.

2. Public employees' organizations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

3. In particular, acts which are designed to promote the establishment of public employees' organizations under the domination of a public authority, or to support public employees' organizations by financial or other means, with the object of placing such organizations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

PART III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES' ORGANIZATIONS

Article 6

1. Such facilities shall be afforded to the representatives of recognized public employees' organizations as may be appropriate in order to enable

them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

PART IV. PROCEDURES FOR DETERMINING TERMS AND
CONDITIONS OF EMPLOYMENT

Article 7

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organizations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

PART V. SETTLEMENT OF DISPUTES

Article 8

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

PART VI. CIVIL AND POLITICAL RIGHTS

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

Labour Relations (Public Service) Recommendation, 1978 (No. 159)

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 Sixty-fourth Session on 7 June 1978, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining condi-

tions of employment in the public service, 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 Relations (Public Service) Convention, 1978;

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Relations (Public Service) Recommendation, 1978:

1. (1) In countries in which procedures for recognition of public employees' organizations apply with a view to determining the organizations to be granted, on a preferential or exclusive basis, the rights provided for under Parts III, IV or V of the Labour Relations (Public Service) Convention, 1978, such determination should be based on objective and pre-established criteria with regard to the organizations' representative character.

(2) The procedures referred to in subparagraph (1) of this Paragraph should be such as not to encourage the proliferation of organizations covering the same categories of employees.

2. (1) In the case of negotiation of terms and conditions of employment in accordance with Part IV of the Labour Relations (Public Service) Convention, 1978, the persons or bodies competent to negotiate on behalf of the public authority concerned and the procedure for giving effect to the agreed terms and conditions of employment should be determined by national laws or regulations or other appropriate means.

(2) Where methods other than negotiation are followed to allow representatives of public employees to participate in the determination of terms and conditions of employment, the procedure for such participation and for final determination of these matters should be determined by national laws or regulations or other appropriate means.

3. Where an agreement is concluded between a public authority and a public employees' organization in pursuance of Paragraph 2, subparagraph (1), of this Recommendation, the period during which it is to operate and/or the procedure whereby it may be terminated, renewed or revised should normally be specified.

4. In determining the nature and scope of the facilities which should be afforded to representatives of public employees' organizations in accordance with Article 6, paragraph 3, of the Labour Relations (Public Service) Convention, 1978, regard should be had to the Workers' Representatives Recommendation, 1971.

Collective Bargaining Convention, 1981 (No. 154)

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 Sixty-seventh Session on 3 June 1981, and

Reaffirming the provision of the Declaration of Philadelphia recognizing "the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve ... the effective recognition of the right of collective bargaining, and noting that this principle is fully applicable to all people everywhere", and

Having regard to the key importance of existing international standards contained in the Freedom of Association and Protection of the Right to Organize Convention, 1948, the Right to Organize and Collective Bargaining Convention, 1949, the Collective Agreements Recommendation, 1951, the Voluntary Conciliation and Arbitration Recommendation, 1951, the Labour Relations (Public Service) Convention and Recommendation, 1978, and the Labour Administration Convention and Recommendation, 1978, and

Considering that it is desirable to make greater efforts to achieve the objectives of these standards and, particularly, the general principles set out in Article 4 of the Right to Organize and Collective Bargaining Convention, 1949, and in Paragraph 1 of the Collective Agreements Recommendation, 1951, and

Considering accordingly that these standards should be complemented by appropriate measures based on them and aimed at promoting free and voluntary collective bargaining, and

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, 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 nineteenth day of June of the year one thousand nine hundred and eighty-one, the following Convention, which may be cited as the Collective Bargaining Convention, 1981:

PART I. SCOPE AND DEFINITIONS

Article 1 1. This Convention applies to all branches of economic activity.

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

3. As regards the public service, special modalities of application of this Convention may be fixed by national laws or regulations or national practice.

Article 2

For the purpose of this Convention the term "collective bargaining" extends to all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other, for —

- (a) determining working conditions and terms of employment; and/or
- (b) regulating relations between employers and workers; and/or
- (c) regulating relations between employers or their organizations and a workers' organization or workers' organizations.

Article 3

1. Where national law or practice recognizes the existence of workers' representatives as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971, national law or practice may determine the extent to which the term "collective bargaining" shall also extend, for the purpose of this Convention, to negotiations with these representatives.

2. Where, in pursuance of paragraph 1 of this Article, the term "collective bargaining" also includes negotiations with the workers' representatives referred to in that paragraph, appropriate measures shall be taken, wherever necessary, to ensure that the existence of these representatives is not used to undermine the position of the workers' organizations concerned.

PART II. METHODS OF APPLICATION

Article 4

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

PART III. PROMOTION OF COLLECTIVE BARGAINING

Article 5

1. Measures adapted to national conditions shall be taken to promote collective bargaining.

2. The aims of the measures referred to in paragraph 1 of this Article shall be the following:

- (a) collective bargaining should be made possible for all employers and all groups of workers in the branches of activity covered by this Convention;
- (b) collective bargaining should be progressively extended to all matters covered by subparagraphs (a), (b) and (c) of Article 2 of this Convention;
- (c) the establishment of rules of procedure agreed between employers' and workers' organizations should be encouraged;
- (d) collective bargaining should not be hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules;
- (e) bodies and procedures for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining.

Article 6

The provisions of this Convention do not preclude the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machinery or institutions, in which machinery or institutions the parties to the collective bargaining process voluntarily participate.

Article 7

Measures taken by public authorities to encourage and promote the development of collective bargaining shall be the subject of prior consultation and, whenever possible, agreement between public authorities and employers' and workers' organizations.

Article 8

The measures taken with a view to promoting collective bargaining shall not be so conceived or applied as to hamper the freedom of collective bargaining.

Collective bargaining recommendation, 1981 (No. 163)

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 the promotion of collective bargaining, 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 Collective Bargaining Convention, 1981,

adopts this nineteenth day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Collective Bargaining Recommendation, 1981:

I. MÉTHODS OF APPLICATION

1. The provisions of this Recommendation may be applied by national laws or regulations, collective agreements, arbitration awards or in any other manner consistent with national practice.

II. MEANS OF PROMOTING COLLECTIVE BARGAINING

2. In so far as necessary, measures adapted to national conditions should be taken to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organisations.

3. As appropriate and necessary, measures adapted to national conditions should be taken so that--

(a) representative employers' and workers' organisations are recognised for the purposes of collective bargaining;

(b) in countries in which the competent authorities apply procedures for recognition with a view to determining the organisations to be granted the right to bargain collectively, such determination is based on pre-established and objective criteria with regard to the organisations' representative character, established in consultation with representative employers' and workers' organisations.

4.

(1) Measures adapted to national conditions should be taken, if necessary, so that collective bargaining is possible at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry, or the regional or national levels.

(2) In countries where collective bargaining takes place at several levels, the parties to negotiations should seek to ensure that there is co-ordination among these levels.

5. (1) Measures should be taken by the parties to collective bargaining so that their negotiators, at all levels, have the opportunity to obtain appropriate training.

(2) Public authorities may provide assistance to workers' and employers' organisations, at their request, for such training.

(3) The content and supervision of the programmes of such training should be determined by the appropriate workers' or employers' organisation concerned.

(4) Such training should be without prejudice to the right of workers' and employers' organisations to choose their own representatives for the purpose of collective bargaining.

6. Parties to collective bargaining should provide their respective negotiators with the necessary mandate to conduct and conclude negotiations, subject to any provisions for consultations within their respective organisations.

7. (1) Measures adapted to national conditions should be taken, if necessary, so that the parties have access to the information required for meaningful negotiations.

(2) For this purpose--

- (a) public and private employers should, at the request of workers' organisations, make available such information on the economic and social situation of the negotiating unit and the undertaking as a whole, as is necessary for meaningful negotiations; where the disclosure of some of this information could be prejudicial to the undertaking, its communication may be made conditional upon a commitment that it would be regarded as confidential to the extent required; the information to be made available may be agreed upon between the parties to collective bargaining;
- (b) the public authorities should make available such information as is necessary on the over-all economic and social situation of the country and the branch of activity concerned, to the extent to which the disclosure of this information is not prejudicial to the national interest.

8. Measures adapted to national conditions should be taken, if necessary, so that the procedures for the settlement of labour disputes assist the parties to find a solution to the dispute themselves, whether the dispute is one which arose during the negotiation of agreements, one which arose in connection with the interpretation and application of agreements or one covered by the Examination of Grievances Recommendation, 1967.

III. FINAL PROVISION

9. This Recommendation does not revise any existing Recommendation.

3

PROVISIONS ON THE RIGHTS OF EMPLOYERS' AND WORKERS' ORGANIZATIONS AND ON INDUSTRIAL RELATIONS IN OTHER CONVENTIONS AND RECOMMENDATIONS

(extracts)

A. MIGRANT WORKERS

Migration for Employment Convention, 1939 (No. 66)¹

Article 6

1. Each Member which ratifies this Convention undertakes that it will apply to foreigners treatment no less favourable than that which it applies to its own nationals with respect to the following matters:

- (a) in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities —
 - (i) conditions of work and more particularly remuneration, and (ii) the right to be a member of a trade union;
- (b) employment taxes, dues or contributions payable by the person employed; and
- (c) legal proceedings relating to contracts of employment.

2. The equality of treatment provided for in the preceding paragraph may be granted subject to reciprocity, which shall be deemed to exist —

- (a) as between all Members bound by this Convention; and

¹ This Convention was not ratified by any member State and as a result it never entered into force. It was revised in 1949 by Convention No. 97; because of the entry into force of that Convention, Convention No. 66 is no longer open to further ratification.

- (b) as between each Member bound by this Convention and any other State with which it has concluded a reciprocity agreement relating to the matter in question.

Migration for Employment Convention (Revised), 1949 (No. 97)

Article 6

1. Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

- (a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities —
 - (i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;
 - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;

Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100)

I. DEFINITIONS AND SCOPE

1. This Recommendation applies to —

- (a) countries and territories in which the evolution from a subsistence form of economy towards more advanced forms of economy, based on wage-earning and entailing sporadic and scattered development of industrial and agricultural centres, brings with it appreciable migratory movements of workers and sometimes their families;
- (b) countries and territories through which such migratory movements of workers pass on their outward and, where applicable, their return journeys, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned during their journeys than is laid down in this Recommendation;
- (c) countries and territories of destination of such migratory movements of workers, if existing arrangements in such countries and territories, taken as a whole, afford less protection to the persons concerned

during their journeys or employment than is laid down in this Recommendation.

2. For the purposes of this Recommendation, the term "migrant worker" means any worker participating in such migratory movements either within the countries and territories described in clause (a) of Paragraph 1 above or from such countries and territories into or through the countries and territories described in clauses (b) and (c) of Paragraph 1 above, whether he has taken up employment, is moving in search of employment or is going to arranged employment, and irrespective of whether he has accepted an offer of employment or entered into a contract. Where applicable, the term "migrant worker" also means any worker returning temporarily or finally during or at the end of such employment.

3. Nothing in this Recommendation should be construed as giving any person a right to move into or remain in any country or territory except in accordance with the immigration or other laws of that country or territory.

4. The provisions of this Recommendation are without prejudice to any provision or practice, existing by virtue of law, custom or agreement, which provides for migrant workers conditions more favourable than those provided in this Recommendation.

5. Any discrimination against migrant workers should be eliminated.

E. TRADE UNION ACTIVITIES

41. The right of association and freedom for all lawful trade union activities should be granted to migrant workers in the centres where they work and all practicable measures should be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organizations.

Migrant Workers Recommendation, 1975 (No. 151)

1. Members should apply the provision of this Recommendation within the framework of a coherent policy on international migration for employment. That policy should be based upon the economic and social needs of both countries of origin and countries of employment; it should take account not only of short-term manpower needs and resources but also of the long-term social and economic consequences of migration for migrants as well as for the communities concerned.

I. EQUALITY OF OPPORTUNITY AND TREATMENT

2. Migrant workers and members of their families lawfully within the territory of a Member should enjoy effective equality of opportunity and treatment with nationals of the Member concerned in respect of —

- (a) access to vocational guidance and placement services;
- (b) access to vocational training and employment of their own choice on the basis of individual suitability for such training or employment, account being taken of qualifications acquired outside the territory of and in the country of employment;
- (c) advancement in accordance with their individual character, experience, ability and diligence;
- (d) security of employment, the provision of alternative employment, relief work and retraining;
- (e) remuneration for work of equal value;
- (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;
- (h) rights of full membership in any form of cooperative; (i) conditions of life, including housing and the benefits of social services and educational and health facilities.

3. Each Member should ensure the application of the principles set forth in Paragraph 2 of this Recommendation in all activities under the control of a public authority and promote its observance in all other activities by methods appropriate to national conditions and practice.

4. Appropriate measures should be taken, with the collaboration of employers' and workers' organizations and other bodies concerned, with a view to —

- (a) fostering public understanding and acceptance of the above-mentioned principles;
- (b) examining complaints that these principles are not being observed and securing the correction, by conciliation on other appropriate means, of any practices regarded as in conflict therewith.

5. Each Member should ensure that national laws and regulations concerning residence in its territory are so applied that the lawful exercise of rights enjoyed in pursuance of these principles cannot be the reason for non-renewal of a residence permit or for expulsion and is not inhibited by the threat of such measures.

B. SOCIAL POLICY

Social Policy in Dependent Territories Recommendation, 1944 (No. 70)

1. Each Member of the International Labour Organization should take or continue to take such steps as are within its competence to promote the well-being and development of the peoples of dependent territories through the effective application of the general principles set forth in Part I of the Annex to this Recommendation.

2. Each Member of the Organization which is responsible for any dependent territory should take all steps within its competence to secure the effective application in each such territory of the minimum standards set forth in Part II of the Annex to this Recommendation, and in particular should bring this Recommendation before the authority or authorities competent to make effective in each such territory the minimum standards set forth in Part II of the Annex.

3. Each Member of the Organization should, if it approves this Recommendation, notify the Director of the International Labour Office of its acceptance of the general principles set forth in Part I of the Annex; should communicate to the Director at the earliest possible date particulars of the action taken to make effective the minimum standards set forth in Part II of the Annex in respect of each dependent territory for which the Member in question is responsible; and thereafter should report to the International Labour Office from time to time, as requested by the Governing Body, concerning the action taken to give effect to the Recommendation.

4. The standards set forth in Part II of the Annex to this Recommendation should be regarded as minimum standards, which do not qualify or impair any obligation to apply higher standards incumbent upon any Member of the Organization under the Constitution of the Organization or under any international labour Convention which the Member may have ratified, and should in no case be so interpreted or applied as to lessen the protection afforded by existing legislation to the workers concerned.

ANNEX

PART I. GENERAL PRINCIPLES

PART II. MINIMUM STANDARDS

SECTION 13. INDUSTRIAL ORGANIZATION

Article 43

1. The rights of employers and employed alike to associate for all lawful purposes shall be guaranteed by appropriate measures.

2. All practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of machinery for conciliation, arbitration, minimum wage-fixing and labour inspection. Where representative organizations of workers have not developed, the competent authority shall appoint persons specially qualified to act on behalf of the workers and by advice and guidance to assist in the early development of workers' organizations.

3. All practicable measures shall be taken to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organizations.

Article 44

1. As rapidly as possible, machinery shall be created for the settlement of collective disputes between employers and workers.

2. Representatives of the employers and workers concerned, including representatives of their respective organizations, where such exist, shall, where practicable, be associated in the operation of the machinery in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by the competent authority.

Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)

PART I. OBLIGATIONS OF PARTIES

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes that the policies and measures set forth in the Convention shall be applied in the non-metropolitan territories for which it has or assumes responsibilities, including any trust territories for which it is the administering authority, other than the territories referred to in paragraphs 2 and 3 of this Article, subject to the concurrence of the

Governments of the territories concerned in respect of any matters which are within the self-governing powers of the territories.

2. Where the subject matter of this Convention is wholly or primarily 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.

3. 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 Organization 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.

PART VI. NON-DISCRIMINATION ON GROUNDS OF RACE, COLOUR,
SEX, BELIEF, TRIBAL ASSOCIATION
OR TRADE UNION AFFILIATION

Article 18

1. It shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of:

- (a) labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the territory;
- (b) admission to public or private employment;
- (c) conditions of engagement and promotion;
- (d) opportunities for vocational training;
- (e) conditions of work;
- (f) health, safety and welfare measures;
- (g) discipline;
- (h) participation in the negotiation of collective agreements;
- (i) wage-rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking to the extent to which recognition of this principle is accorded in the metropolitan territory.

2. Subject to the provisions of subparagraph (i) of the preceding paragraph, all practicable measures shall be taken to lessen, by raising the rates applicable to the lower-paid workers, any existing differences in wage

rates due to discrimination by reason of race, colour, sex, belief, tribal association or trade union affiliation.

PART VIII. MISCELLANEOUS PROVISIONS

Article 21

1. In respect of the territories covered by paragraph 1 of Article 1 of this Convention, each Member of the Organization 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 —

- (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 27, 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.

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

PART V. NON-DISCRIMINATION ON GROUNDS OF RACE, COLOUR,
SEX, BELIEF, TRIBAL ASSOCIATION
OR TRADE UNION AFFILIATION

Article 14

1. It shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of —

- (a) labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the country;
- (b) admission to public or private employment;
- (c) conditions of engagement and promotion;
- (d) opportunities for vocational training;
- (e) conditions of work;
- (f) health, safety and welfare measures;
- (g) discipline;
- (h) participation in the negotiation of collective agreements;
- (i) wage-rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking.

2. All practicable measures shall be taken to lessen, by raising the rates applicable to the lower-paid workers, any existing differences in wage rates due to discrimination by reason of race, colour, sex, belief, tribal association or trade union affiliation.

C. INDIGENOUS AND TRIBAL PEOPLES

Indigenous and Tribal Populations Convention, 1957 (No. 107)²

PART I. GENERAL POLICY

Article 1

1. This Convention applies to —

- (a) members of tribal or semi-tribal populations in independent countries whose social and economic conditions are at a less advanced stage than

² This Convention was revised by Convention No. 169 and therefore is no longer open to ratification.

the stage reached by the other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

- (b) members of tribal or semi-tribal populations in independent countries which are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization and which, irrespective of their legal status, live more in conformity with the social, economic and cultural institutions of that time than with the institutions of the nation to which they belong.

2. For the purposes of this Convention, the term "semi-tribal" includes groups and persons who, although they are in the process of losing their tribal characteristics, are not yet integrated into the national community.

3. The indigenous and other tribal or semi-tribal populations mentioned in paragraphs 1 and 2 of this Article are referred to hereinafter as "the populations concerned".

PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT

Article 15

1. Each Member shall, within the framework of national laws and regulations, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to the populations concerned so long as they are not in a position to enjoy the protection granted by law to workers in general.

2. Each Member shall do everything possible to prevent all discrimination between workers belonging to the populations concerned and other workers, in particular as regards —

- (a) admission to employment, including skilled employment;
- (b) equal remuneration for work of equal value;
- (c) medical and social assistance, the prevention of employment injuries, workmen's compensation, industrial hygiene and housing;
- (d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.

Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Article 20

1. Governments shall, within the framework of national laws and regulations, and in cooperation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.

2. Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards:

- (a) admission to employment, including skilled employment, as well as measures for promotion and advancement;
- (b) equal remuneration for work of equal value;
- (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing;
- (d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.

D. PLANTATIONS

Plantations Convention, 1958 (No. 110)

PART I. GENERAL PROVISIONS

Article 1

1. For the purpose of this Convention, the term "plantation" includes any agricultural undertaking regularly employing hired workers which is situated in the tropical or subtropical regions and which is mainly concerned with the cultivation or production for commercial purposes of coffee, tea, sugar cane, rubber, bananas, cocoa, coconuts, groundnuts, cotton, tobacco, fibres (sisal, jute and hemp), citrus, palm oil, cinchona or pineapple; it does not include family or small-scale holdings producing for local consumption and not regularly employing hired workers.

2. Each Member for which this Convention is in force may, after consultation with the most representative organizations of employers and workers concerned, where such exist, make the Convention applicable to other plantations by —

ILO law on freedom of association

- (a) adding to the list of crops referred to in paragraph 1 of this Article any one or more of the following crops: rice, chicory, cardamom, geranium and pyrethrum, or any other crop;
- (b) adding to the plantations covered by paragraph 1 of this Article classes of undertakings not referred to therein which, by national law or practice, are classified as plantations; and shall indicate the action taken in its annual reports upon the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization.

3. For the purpose of this Article the term "plantation" shall ordinarily include services carrying out the primary processing of the product or products of the plantation.

Article 2

Each Member which ratifies this Convention undertakes to apply its provisions equally to all plantation workers without distinction as to race, colour, sex, religion, political opinion, nationality, social origin, tribe or trade union membership.

Article 3

1. Each Member for which this Convention is in force —

- (a) shall comply with —
 - (i) Parti;
 - (ii) Parts IV, IX and XI;
 - (iii) at least two of Parts II, III, V, VI, VII, VIII, X, XII and XIII; and
 - (iv) Part XIV;
- (b) shall, if it has excluded one or more Parts from its acceptance of the obligations of the Convention, specify, in a declaration appended to its ratification, the Part or Parts so excluded.

2. Each Member which has made a declaration under paragraph 1 (b) of this Article shall indicate in its annual reports submitted under article 22 of the Constitution of the International Labour Organization any progress made towards the application of the excluded Part or Parts.

3. Each Member which has ratified the Convention, but has excluded any Part or Parts thereof under the provisions of the preceding paragraphs, may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of the Convention in respect of any Part or Parts so excluded; such undertakings shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

Article 4

In accordance with article 19, paragraph 8, of the Constitution of the International Labour Organization, nothing in this Convention shall affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for by the Convention.

PART IX. RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING

Article 54

The right of employers and employed alike to associate for all lawful purposes shall be guaranteed by appropriate measures.

Article 55

All procedures for the investigation of disputes between employers and workers shall be as simple and expeditious as possible.

Article 56

1. Employers and workers shall be encouraged to avoid disputes and, if they arise, to reach fair settlements by means of conciliation.

2. For this purpose all practicable measures shall be taken to consult and associate the representatives of organizations of employers and workers in the establishment and working of conciliation machinery.

3. Subject to the operation of such machinery, public officers shall be responsible for the investigation of disputes and shall endeavour to promote conciliation and to assist the parties in arriving at a fair settlement.

4. Where practicable, these officers shall be officers specially assigned to such duties.

Article 57

1. Machinery shall be created as rapidly as possible for the settlement of disputes between employers and workers.

2. Representatives of the employers and workers concerned, including representatives of their respective organizations, where such exist, shall be associated where practicable in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by the competent authority.

Article 58

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

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2. Such protection shall apply more particularly in respect of acts calculated to —

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 59

1. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 60

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

Article 61

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

PART X. FREEDOM OF ASSOCIATION

Article 62

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

Article 63

1. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full free-

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dom, to organize their administration and activities and to formulate their programmes.

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

Article 64

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

Article 65

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

Article 66

The provisions of Articles 62, 63 and 64 apply to federations and confederations of workers' and employers' organizations.

Article 67

The acquisition of legal personality by workers' and employers' organizations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 62, 63 and 64.

Article 68

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

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

Article 69

In this Part of this Convention the term "organization" means any organization of workers or of employers for furthering and defending the interests of workers or of employers.

Article 70

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

E. SEAFARERS

Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108)

The country of registration should accept the full obligations implied by registration and exercise effective jurisdiction and control for the purpose of the safety and welfare of seafarers in its seagoing merchant ships and in particular should —

- (a) make and adopt regulations designed to ensure that all ships on its register observe internationally accepted safety standards;
- (b) make arrangements for a proper ship-inspection service adequate to the requirements of the tonnage on its register and ensure that all ships on its register are regularly inspected to ensure conformity with regulations issued under (a) above;
- (c) establish both in its territory and abroad the requisite government-controlled agencies to supervise the signing on and signing off of seafarers;
- (d) ensure or satisfy itself that the conditions under which the seafarers serve are in accordance with the standards generally accepted by the traditional maritime countries;
- (e) by regulations or legislation if not already otherwise provided for, ensure freedom of association for the seafarers serving on board its ships;
- (f) ensure by regulations or legislation that proper repatriation for the seafarers serving on board its ships is provided in accordance with the practice followed in traditional maritime countries;
- (g) ensure that proper and satisfactory arrangements are made for the examination of candidates for certificates of competency and for the issuing of such certificates.

Dock Work Recommendation, 1973 (No. 145)

I. SCOPE AND DEFINITIONS

1. Except as otherwise provided in Paragraph 36, this Recommendation applies to persons who are regularly available for work as dockworkers and who depend on their work as such for their main annual income.

2. For the purpose of this Recommendation the terms "dockworkers" and "dock work" mean persons and activities defined as such by national law or practice. The organizations of employers and workers concerned

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should be consulted on or otherwise participate in the establishment and revision of such definitions. Account should be taken in this connection of new methods of cargo handling and their effect on the various dockworker occupations.

IV. LABOUR-MANAGEMENT RELATIONS

23. Discussions and negotiations between employers and workers concerned should aim not merely at settlement of current issues such as wages and conditions of work, but at an overall arrangement encompassing the various social measures required to meet the impact of new methods of cargo handling.

24. The existence of organizations of employers and of dockworkers established in accordance with the principles of the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949, able freely to enter into negotiations and to ensure the execution of agreements arrived at, should be recognized as being important for this purpose.

25. Where it does not already exist, appropriate joint industrial machinery should be set up with a view to creating a climate of confidence and cooperation between dockworkers and employers in which social and technical change can be brought about without tension or conflict and grievances promptly settled in accordance with the Examination of Grievances Recommendation, 1967.

26. Employers' and workers' organizations, together as appropriate with the competent authorities, should participate in the application of the social measures required, and in particular in the operation of schemes for the regularization of employment or stabilization of earnings.

27. Effective policies of communication between employers and dockworkers and between the leaders of workers' organizations and their members should be established in accordance with the Communications within the Undertaking Recommendation, 1967, and implemented by all possible means at all levels.

VII. MISCELLANEOUS PROVISIONS

36. Appropriate provisions of this Recommendation should, as far as practicable, also be applied to occasional and to seasonal dockworkers in accordance with national law and practice.

**Merchant Shipping (Improvement of Standards) Recommendation,
1976 (No. 155)**

1. (1) Except as otherwise provided in this Paragraph, this Recommendation applies to every seagoing ship, whether publicly or privately owned, which is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose.

(2) National laws or regulations should determine when ships are to be regarded as seagoing ships for the purpose of this Recommendation.

(3) This Recommendation applies to seagoing tugs.

(4) This Recommendation does not apply to: —

- (a) ships primarily propelled by sail, whether or not they are fitted with auxiliary engines;
- (b) ships engaged in fishing or in whaling or in similar pursuits;
- (c) small vessels and vessels such as oil-rigs and drilling platforms when not engaged in navigation, the decision as to which vessels are covered by this clause to be taken by the competent authority in each country in consultation with the most representative organizations of ship owners and seafarers.

(5) Nothing in this Recommendation should be deemed to extend the scope of the instruments referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976, or in the Appendix to this Recommendation.

2. Members should —

- (a) ensure that the provisions of the laws and regulations provided for in Article 2, subparagraph (a), of the Merchant Shipping (Minimum Standards) Convention, 1976, and
- (b) satisfy themselves that such provisions of collective agreements as deal with shipboard conditions of employment and shipboard living arrangements, are at least equivalent to the Conventions or Articles of Conventions referred to in the Appendix to the Merchant Shipping (Minimum Standards) Convention, 1976.³

3. In addition, steps should be taken, by stages if necessary, with a view to such laws or regulations, or as appropriate collective agreements, containing provisions at least equivalent to the provisions of the instruments referred to in the Appendix to this Recommendation.⁴

³ "... Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98)."

⁴ "... Workers' Representatives Convention, 1971 (No. 135);..."

F. NURSES

Nursing Personnel Convention, 1977 (No. 149)

Article 1

1. For the purpose of this Convention, the term "nursing personnel" includes all categories of persons providing nursing care and nursing services.

2. This Convention applies to all nursing personnel, wherever they work.

3. The competent authority may, after consultation with the employers' and workers' organizations concerned, where such organizations exist, establish special rules concerning nursing personnel who give nursing care and services on a voluntary basis; these rules shall not derogate from the provisions of Article 2, paragraph 2 (a), Article 3, Article 4 and Article 7 of this Convention.

Article 5

1. Measures shall be taken to promote the participation of nursing personnel in the planning of nursing services and consultation with such personnel on decisions concerning them, in a manner appropriate to national conditions.

2. The determination of conditions of employment and work shall preferably be made by negotiation between employers' and workers' organizations concerned.

3. The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought through negotiations between the parties or, in such a manner as to ensure the confidence of the parties involved, through independent and impartial machinery such as mediation, conciliation and voluntary arbitration.

Nursing Personnel Recommendation, 1977 (No. 157)

I. SCOPE

1. For the purpose of this Recommendation, the term "nursing personnel" includes all categories of persons providing nursing care and nursing services.

2. This Recommendation applies to all nursing personnel, wherever they work.

3. The competent authority may, after consultation with the employers' and workers' organizations concerned, where such organizations exist, establish special rules concerning nursing personnel who give services on a voluntary basis; these rules should not derogate from the provisions of Parts II, III, IV and IX of this Recommendation.

V. PARTICIPATION

19. (1) Measures should be taken to promote the participation of nursing personnel in the planning and in decisions concerning national health policy in general and concerning their profession in particular at all levels, in a manner appropriate to national conditions.

(2) In particular —

- (a) qualified representatives of nursing personnel, or of organizations representing them, should be associated with the elaboration and application of policies and general principles regarding the nursing profession, including those regarding education and training and the practice of the profession;
- (b) conditions of employment and work should be determined by negotiation between the employers' and workers' organizations concerned;
- (c) the settlement of disputes arising in connection with the determination of terms and conditions of employment should be sought through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and voluntary arbitration, with a view to making it unnecessary for the organizations representing nursing personnel to have recourse to such other steps as are normally open to organizations of other workers in defence of their legitimate interests;
- (d) in the employing establishment, nursing personnel or their representatives in the meaning of Article 3 of the Workers' Representatives Convention, 1971, should be associated with decisions relating to their professional life, in a manner appropriate to the questions at issue.

20. Representatives of nursing personnel should be assured the protection provided for in the Workers' Representatives Convention and Recommendation, 1971.

G. GENERAL CONDITIONS OF EMPLOYMENT

Paid Educational Leave Convention, 1974 (No. 140)

Article 1

In this Convention, the term "paid educational leave" means leave granted to a worker for educational purposes for a specified period during working hours, with adequate financial entitlements.

Article 2

Each Member shall formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of —

- (a) training at any level;
- (b) general, social and civic education;
- (c) trade union education.

Article 3

That policy shall be designed to contribute, on differing terms as necessary —

- (a) to the acquisition, improvement and adaptation of occupational and functional skills, and the promotion of employment and job security in conditions of scientific and technological development and economic and structural change;
- (b) to the competent and active participation of workers and their representatives in the life of the undertaking and of the community;
- (c) to the human, social and cultural advancement of workers; and
- (d) generally, to the promotion of appropriate continuing education and training, helping workers to adjust to contemporary requirements.

Article 4

The policy shall take account of the stage of development and the particular needs of the country and of different sectors of activity, and shall be coordinated with general policies concerning employment, education and training as well as policies concerning hours of work, with due regard as appropriate to seasonal variations of hours of work or of volume of work.

Articles

The means by which provision is made for the granting of paid educational leave may include national laws and regulations, collective agreements, arbitration awards, and such other means as may be consistent with national practice.

Article 6

The public authorities, employers' and workers' organizations, and institutions or bodies providing education and training shall be associated, in a manner appropriate to national conditions and practice, with the formulation and application of the policy for the promotion of paid educational leave.

Article 7

The financing of arrangements for paid educational leave shall be on a regular and adequate basis and in accordance with national practice.

Article 8

Paid educational leave shall not be denied to workers on the ground of race, colour, sex, religion, political opinion, national extraction or social origin.

Article 9

As necessary, special provisions concerning paid educational leave shall be established —

- (a) where particular categories of workers, such as workers in small undertakings, rural or other workers residing in isolated areas, shift workers or workers with family responsibilities, find it difficult to fit into general arrangements;
- (b) where particular categories of undertakings, such as small or seasonal undertakings, find it difficult to fit into general arrangements, it being understood that workers in these undertakings would not be excluded from the benefit of paid educational leave.

Article 10

Conditions of eligibility for paid educational leave may vary according to whether such leave is intended for —

- (a) training at any level;
- (b) general, social or civic education; or
- (c) trade union education.

Article 11

A period of paid educational leave shall be assimilated to a period of effective service for the purpose of establishing claims to social benefits and other rights deriving from the employment relation, as provided for by national laws or regulations, collective agreements, arbitration awards or such other means as may be consistent with national practice.

Paid Educational Leave Recommendation, 1974 (No. 148)

I. DEFINITION

1. In this Recommendation, the term "paid educational leave" means leave granted to a worker for educational purposes for a specified period during working hours, with adequate financial entitlements.

II. FORMULATION OF POLICY AND METHODS OF IMPLEMENTATION

2. Each Member should formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of —

- (a) training at any level;
- (b) general, social and civic education;
- (c) trade union education.

3. That policy should be designed to contribute, on differing terms as necessary —

- (a) to the acquisition, improvement and adaptation of occupational and functional skills, and the promotion of employment and job security in conditions of scientific and technological development and economic and structural change;
- (b) to the competent and active participation of workers and their representatives in the life of the undertaking and of the community;
- (c) to the human, social and cultural advancement of workers; and
- (d) generally, to the promotion of appropriate continuing education and training, helping workers to adjust to contemporary requirements.

4. (1) The policy should take account of the stage of development and the particular needs of the country and of different sectors of activity, of other social objectives, and of national priorities.

(2) It should be coordinated with general policies concerning employment, education and training as well as policies concerning hours of work, with due regard as appropriate to seasonal variations of hours of work or of volume of work.

5. The means by which provision is made for the granting of paid educational leave may include national laws and regulations, collective agreements, arbitration awards, and such other means as may be consistent with national practice.

ILO law on freedom of association

6. It should be recognized that paid educational leave is not a substitute for adequate education and training early in life and that it is only one of a variety of means for continuing education and training.

III. MEASURES FOR PROMOTION OF PAID EDUCATIONAL LEAVE

7. The public authorities, employers' and workers' organizations, and institutions or bodies providing education and training should be associated, in a manner appropriate to national conditions and practice, with the formulation and application of the policy for the promotion of paid educational leave.

8. Measures should be taken, on the basis of plans adapted to the aims of the policy —

- (a) to ascertain the current and future education and training needs of workers which may be met by paid educational leave;
- (b) to make full use of all available education and training facilities, and to establish new facilities to meet the education and training purposes of paid educational leave;
- (c) to take account in teaching methods and education and training programmes of the objects and the terms of paid educational leave, which reflect new needs;
- (d) to encourage workers to make the best use of education and training facilities available to them;
- (e) to encourage employers to grant paid educational leave to workers.

9. There should be adequate systems of information and guidance regarding possibilities of paid educational leave.

10. Adequate arrangements should be made to ensure that the education and training provided are of appropriate quality.

IV. FINANCING

11. The financing of arrangements for paid educational leave should be on a regular and adequate basis and in accordance with national practice.

12. It should be recognized that —

- (a) employers, collectively or individually,
- (b) public authorities and educational or training institutions or bodies, and
- (c) employers' and workers' organizations, may be expected to contribute to the financing of arrangements for paid educational leave according to their respective responsibilities.

V. CONDITIONS FOR GRANTING OF PAID EDUCATIONAL LEAVE

13. Paid educational leave should not be denied to workers on the ground of race, colour, sex, religion, political opinion, national extraction or social origin.

14. Workers should remain free to decide in which education or training programmes they wish to participate.

15. As necessary, special provisions concerning paid educational leave should be established —

- (a) where particular categories of workers, such as workers in small undertakings, rural or other workers residing in isolated areas, shift workers or workers with family responsibilities, find it difficult to fit into general arrangements;
- (b) where particular categories of undertakings, such as small or seasonal undertakings, find it difficult to fit into general arrangements, it being understood that workers in these undertakings would not be excluded from the benefit of paid educational leave.

16. Conditions of eligibility for paid educational leave may vary according to whether such leave is intended for —

- (a) training at any level;
- (b) general, social or civic education; or
- (c) trade union education.

17. (1) In determining conditions of eligibility, account should be taken of the types of education or training programmes available and of the needs of workers and their organizations and of undertakings, as well as of the public interest.

(2) As regards paid educational leave for trade union education, the workers' organizations concerned should have the responsibility for selection of candidates.

(3) The manner in which workers who satisfy the conditions of eligibility are granted paid educational leave should be agreed upon between undertakings or the employers' organizations concerned and the workers' organizations concerned so as to ensure the efficient continuing operation of the undertakings in question.

18. (1) Where trade union education programmes are carried out by the trade union organizations themselves, they should have the responsibility for planning, approval and implementation of the programmes.

(2) Where such programmes are carried out by other educational institutions or bodies, they should be established in agreement between those bodies and the trade union organizations concerned.

ILO law on freedom of association

19. As required by national or local circumstances or by the circumstances of an undertaking, priority in the granting of paid educational leave should be given to particular categories of workers, or particular occupations or functions, which have especially urgent education or training needs.

20. The financial entitlements of workers during paid educational leave should —

- (a) maintain their level of earnings by continued payment of their wages and other benefits, or by adequate compensation therefor, as provided for by national laws or regulations, collective agreements, arbitration awards or such other means as may be consistent with national practice;
- (b) take account of any major additional costs of education or training.

21. A period of paid educational leave should be assimilated to a period of effective service for the purpose of establishing claims to social benefits and other rights deriving from the employment relation, as provided for by national laws or regulations, collective agreements, arbitration awards, or such other means as may be consistent with national practice.

Part-Time Work Convention, 1994 (No. 175)⁵

Article 4

Measures shall be taken to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of:

- (a) the right to organize, the right to bargain collectively and the right to act as workers' representatives;
- (b) occupational safety and health;
- (c) discrimination in employment and occupation.

H. EMPLOYMENT

Human Resources Development Recommendation, 1975 (No. 150)

I. GENERAL PROVISIONS

1. This Recommendation applies to the vocational guidance and vocational training of young persons and adults for all areas of econ-

⁵ This Convention was adopted by the International Labour Conference in June 1994. As of 15 September 1994 this Convention had not received the number of ratifications necessary for it to enter into force.

omic, social and cultural life and at all levels of occupational skill and responsibility.

2. (1) For the purpose of this Recommendation, the qualification of the terms "guidance" and "training" by the term "vocational" means that guidance and training are directed to identifying and developing human capabilities for a productive and satisfying working life and, in conjunction with the different forms of education, to improve the ability of the individual to understand and, individually or collectively, to influence working conditions and the social environment.

(2) The definition contained in subparagraph (1) of this Paragraph applies to guidance, to initial and further training, and to retraining, whatever the way in which they are provided and whatever the level of skill and responsibility.

3. In giving effect to this Recommendation, member States should take account of guidelines supplementing its provisions which may be formulated by regional conferences, industrial committees and meetings of experts or consultants convened by the International Labour Organization and other competent bodies.

II. POLICIES AND PROGRAMMES

4. (1) Members should adopt and develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.

(2) These policies and programmes should take due account of —

- (a) employment needs, opportunities and problems, both regional and national;
- (b) the stage and level of economic, social and cultural development; and
- (c) the mutual relationships between human resources development and other economic, social and cultural objectives.

(3) The policies and programmes should be pursued by methods that are appropriate to national conditions.

(4) The policies and programmes should encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

(5) Such policies and programmes should also encourage undertakings to accept responsibility for training workers in their employment. Undertakings should cooperate with the representatives of their workers when planning their training programmes and should ensure, as far as

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possible, that these programmes are in line with those of the public training system.

(6) Such policies and programmes should have as objectives —

- (a) to ensure entry into productive employment, including self-employment, which corresponds to personal aptitudes and aspirations, and to facilitate occupational mobility;
- (b) to promote and develop creativity, dynamism and initiative with a view to maintaining or increasing work effectiveness;
- (c) to protect persons against unemployment or other loss of income or earning capacity deriving from lack of demand for their skills as well as against underemployment;
- (d) to protect persons against excessive physical or mental strain in employment;
- (e) to protect persons against occupational hazards by making high standards of teaching occupational safety and health an integral part of training for each trade or occupation;
- (f) to assist persons in their quest for satisfaction at work, for individual achievement and self-expression, and for the betterment of their lot in life through their own efforts to improve the quality or modify the nature of their contribution to the economy;
- (g) to achieve social, cultural and economic advancement and continuing adjustment to change, with the participation of all concerned in reshaping the work requirements;
- (h) to achieve the full participation of all groups in society in the process of development and in sharing the benefits deriving from it.

5. (1) With the above ends in view, Members should establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, whether these activities take place within the system of formal education or outside it.

(2) Members should aim in particular at —

- (a) ensuring that all have equal access to vocational guidance and vocational training;
- (b) providing, on a continuing basis, broadly conceived and realistic vocational guidance for the various groups of the population in all branches of economic activity;
- (c) developing comprehensive systems of vocational training covering all aspects of productive work in all branches of economic activity;
- (d) facilitating mobility between different lines of training, within and between the various occupations and sectors of economic activity and between different levels of responsibility;

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- (e) coordinating vocational training for one sector of the economy or branch of economic activity with vocational training for other sectors or branches;
- (f) establishing patterns of systematic vocational training in all branches of economic activity and for all types of work and levels of skill and responsibility;
- (g) providing all workers with real possibilities for re-entering the educational system, at a level which takes account of their work experience;
- (h) establishing close cooperation and coordination between vocational guidance and vocational training provided outside the school system, on the one hand, and educational guidance and the school system, on the other;
- (i) establishing conditions permitting workers to supplement their vocational training by trade union education given by their representative organizations;

IV. VOCATIONAL TRAINING

A. General provisions

23. (1) Workers being trained within an undertaking should —

- (a) receive adequate allowances or remuneration;
- (b) be covered by the social security measures applicable to the regular workforce of the undertaking concerned.

(2) Workers receiving training off the job should be granted educational leave in accordance with the terms of the Paid Educational Leave Convention and Recommendation, 1974.

XII. ADMINISTRATIVE ASPECTS AND REPRESENTATIVE BODIES

69. (1) Public authorities and bodies concerned with general education and with vocational guidance, technical and vocational education, vocational training, training of staff for human resources development and management training, public authorities and bodies concerned with planning and implementation of employment and other social and economic development policies, and bodies representative of the various branches of economic activity and occupations, and of the various groups of the population concerned, should collaborate in establishing policies, and in planning and implementing programmes for vocational guidance and vocational training.

(2) Representatives of employers' and workers' organizations should be included in the bodies responsible for governing publicly operated training institutions and for supervising their operation; where such bodies do not exist, representatives of employers' and workers' organizations should in other ways participate in the setting-up, management and supervision of such institutions.

I. FORCED LABOUR

Abolition of Forced Labour Convention, 1957 (No. 105)

Article 1

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

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

Article 2

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

4

CONVENTIONS AND RECOMMENDATIONS CONCERNING INDUSTRIAL RELATIONS AND CONSULTATION WITH EMPLOYERS' AND WORKERS' ORGANIZATIONS (substantive provisions)

Collective Agreements Recommendation, 1951 (No. 91)

I. COLLECTIVE BARGAINING MACHINERY

1. (1) Machinery appropriate to the conditions that exist in each country should be established, by means of agreement or laws or regulations as may be appropriate under national conditions, to negotiate, conclude, revise and renew collective agreements, or to be available to assist the parties in the negotiation, conclusion, revision and renewal of collective agreements.

(2) The organization, methods of operation and functions of such machinery should be determined by agreements between the parties or by national laws or regulations, as may be appropriate under national conditions.

II. DEFINITION OF COLLECTIVE AGREEMENTS

2. (1) For the purpose of this Recommendation, the term "collective agreements" means all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more representative workers' organizations, or, in the absence of such organizations, the representatives of the workers duly elected and authorized by them in accordance with national laws and regulations, on the other.

(2) Nothing in the present definition should be interpreted as implying the recognition of any association of workers established, dominated or financed by employers or their representatives.

III. EFFECTS OF COLLECTIVE AGREEMENTS

3. (1) Collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded. Employers and workers bound by a collective agreement should not be able to include in contracts of employment stipulations contrary to those contained in the collective agreement.

(2) Stipulations in such contracts of employment which are contrary to a collective agreement should be regarded as null and void and automatically replaced by the corresponding stipulations of the collective agreement.

(3) Stipulations in contracts of employment which are more favourable to the workers than those prescribed by a collective agreement should not be regarded as contrary to the collective agreement.

(4) If effective observance of the provisions of collective agreements is secured by the parties thereto, the provisions of the preceding subparagraphs should not be regarded as calling for legislative measures.

4. The stipulations of a collective agreement should apply to all workers of the classes concerned employed in the undertakings covered by the agreement unless the agreement specifically provides to the contrary.

IV. EXTENSION OF COLLECTIVE AGREEMENTS

5. (1) Where appropriate, having regard to established collective bargaining practice, measures, to be determined by national laws or regulations and suited to the conditions of each country, should be taken to extend the application of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement.

(2) National laws or regulations may make the extension of a collective agreement subject to the following, among other, conditions:

- (a) that the collective agreement already covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative;
- (b) that, as a general rule, the request for extension of the agreement shall be made by one or more organizations of workers or employers who are parties to the agreement;
- (c) that, prior to the extension of the agreement, the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations.

V. INTERPRETATION OF COLLECTIVE AGREEMENTS

6. Disputes arising out of the interpretation of a collective agreement should be submitted to an appropriate procedure for settlement established either by agreement between the parties or by laws or regulations as may be appropriate under national conditions.

VI. SUPERVISION OF APPLICATION OF COLLECTIVE AGREEMENTS

7. The supervision of the application of collective agreements should be ensured by the employers' and workers' organizations parties to such agreements or by the bodies existing in each country for this purpose or by bodies established ad hoc.

VII. MISCELLANEOUS

8. National laws or regulations may, among other things, make provision for —

- (a) requiring employers bound by collective agreements to take appropriate steps to bring to the notice of the workers concerned the texts of the collective agreements applicable to their undertakings;
- (b) the registration or deposit of collective agreements and any subsequent changes made therein;
- (c) a minimum period during which, in the absence of any provision to the contrary in the agreement, collective agreements shall be deemed to be binding unless revised or rescinded at an earlier date by the parties.

Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)

I. VOLUNTARY CONCILIATION

1. Voluntary conciliation machinery, appropriate to national conditions, should be made available to assist in the prevention and settlement of industrial disputes between employers and workers.

2. Where voluntary conciliation machinery is constituted on a joint basis, it should include equal representation of employers and workers.

3. (1) The procedure should be free of charge and expeditious; such time limits for the proceedings as may be prescribed by national laws or regulations should be fixed in advance and kept to a minimum.

(2) Provision should be made to enable the procedure to be set in motion, either on the initiative of any of the parties to the dispute or ex officio by the voluntary conciliation authority.

4. If a dispute has been submitted to conciliation procedure with the consent of all the parties concerned, the latter should be encouraged to abstain from strikes and lockouts while conciliation is in progress.

5. All agreements which the parties may reach during conciliation procedure or as a result thereof should be drawn up in writing and be regarded as equivalent to agreements concluded in the usual manner.

II. VOLUNTARY ARBITRATION

6. If a dispute has been submitted to arbitration for final settlement with the consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts while the arbitration is in progress and to accept the arbitration award.

III. GENERAL

7. No provision of this Recommendation may be interpreted as limiting, in any way whatsoever, the right to strike.

Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94)

1. Appropriate steps should be taken to promote consultation and cooperation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery, or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment.

2. In accordance with national custom or practice, such consultation and cooperation should be —

- (a) facilitated by the encouragement of voluntary agreements between the parties, or
- (b) promoted by laws or regulations which would establish bodies for consultation and cooperation and determine their scope, functions, structure and methods of operation as may be appropriate to the conditions in the various undertakings, or
- (c) facilitated or promoted by a combination of these methods.

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

1. (1) Measures appropriate to national conditions should be taken to promote effective consultation and cooperation at the industrial and national levels between public authorities and employers' and workers' organizations, as well as between these organizations, for the purposes indicated in Paragraphs 4 and 5 below, and on such other matters of mutual concern as the parties may determine.

(2) Such measures should be applied without discrimination of any kind against these organizations or amongst them on grounds such as the race, sex, religion, political opinion or national extraction of their members.

2. Such consultation and cooperation should not derogate from freedom of association or from the rights of employers' and workers' organizations, including their right of collective bargaining.

3. In accordance with national custom or practice, such consultation and cooperation should be provided for or facilitated —

- (a) by voluntary action on the part of the employers' and workers' organizations; or
- (b) by promotional action on the part of the public authorities; or
- (c) by laws or regulations; or
- (d) by a combination of any of these methods.

4. Such consultation and cooperation should have the general objective of promoting mutual understanding and good relations between public authorities and employers' and workers' organizations, as well as between these organizations, with a view to developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living.

5. Such consultation and cooperation should aim, in particular —

- (a) at joint consideration by employers' and workers' organizations of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions; and
- (b) at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organizations in an appropriate manner, in respect of such matters as —
 - (i) the preparation and implementation of laws and regulations affecting their interests;
 - (ii) the establishment and functioning of national bodies, such as those responsible for organization of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security and welfare; and
 - (iii) the elaboration and implementation of plans of economic and social development.

Communications within the Undertaking Recommendation, 1967 (No. 129)

I. GENERAL CONSIDERATIONS

1. Each Member should take appropriate action to bring the provisions of this Recommendation to the attention of persons, organizations

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and authorities who may be concerned with the establishment and application of policies concerning communications between management and workers within undertakings.

2. (1) Employers and their organizations as well as workers and their organizations should, in their common interest, recognize the importance of a climate of mutual understanding and confidence within undertakings that is favourable both to the efficiency of the undertaking and to the aspirations of the workers.

(2) This climate should be promoted by the rapid dissemination and exchange of information, as complete and objective as possible, relating to the various aspects of the life of the undertaking and to the social conditions of the workers.

(3) With a view to the development of such a climate management should, after consultation with workers' representatives, adopt appropriate measures to apply an effective policy of communication with the workers and their representatives.

3. An effective policy of communication should ensure that information is given and that consultation takes place between the parties concerned before decisions on matters of major interest are taken by management, in so far as disclosure of the information will not cause damage to either party.

4. The communication methods should in no way derogate from freedom of association; they should in no way cause prejudice to freely chosen workers' representatives or to their organizations or curtail the functions of bodies representative of the workers in conformity with national law and practice.

5. Employers' and workers' organizations should have mutual consultations and exchanges of views in order to examine the measures to be taken with a view to encouraging and promoting the acceptance of communications policies and their effective application.

6. Steps should be taken to train those concerned in the use of communication methods and to make them, as far as possible, conversant with all the subjects in respect of which communication should take place.

7. In the establishment and application of a communications policy, management, employers' and workers' organizations, bodies representative of the workers and, where appropriate under national conditions, public authorities should be guided by the provisions of Part II below.

II. ELEMENTS FOR A COMMUNICATIONS POLICY WITHIN THE UNDERTAKING

8. Any communications policy should be adapted to the nature of the undertaking concerned, account being taken of its size and of the composition and interests of the work force.

9. With a view to fulfilling its purpose, any communications system within the undertaking should be designed to ensure genuine and regular two-way communication —

- (a) between representatives of management (head of the undertaking, department chief, foreman, etc.) and the workers; and
- (b) between the head of the undertaking, the director of personnel or any other representative of top management and trade union representatives or such other persons as may, under national law or practice, or under collective agreements, have the task of representing the interests of the workers at the level of the undertaking.

10. Where the management desires to transmit information through workers' representatives, the latter, if they agree to do so, should be given the means to communicate such information rapidly and completely to the workers concerned.

11. Management should, in choosing the channel or channels of communication which it considers appropriate for the type of information to be transmitted, take due account of the difference in the nature of the functions of supervisors and workers' representatives so as not to weaken their respective positions.

12. The selection of the appropriate medium of communication, and its timing, should be on the basis of the circumstances of each particular situation, account being taken of national practice.

13. Media of communication may include —

- (a) meetings for the purpose of exchanging views and information;
- (b) media aimed at given groups of workers, such as supervisors' bulletins and personnel policy manuals;
- (c) mass media such as house journals and magazines; newsletters and information and induction leaflets; notice-boards; annual or financial reports presented in a form understandable to all the workers; employee letters; exhibitions; plant visits; films; filmstrips and slides; radio and television;
- (d) media aimed at permitting workers to submit suggestions and to express their ideas on questions relating to the operation of the undertaking.

14. The information to be communicated and its presentation should be determined with a view to mutual understanding in regard to the problems posed by the complexity of the undertaking's activities.

15. (1) The information to be given by management should, account being taken of its nature, be addressed either to the workers' representatives or to the workers and should, as far as possible, include all matters of interest to the workers relating to the operation and future prospects of the undertaking and to the present and future situation of the workers, in so far as disclosure of the information will not cause damage to the parties.

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- (2) In particular, management should give information regarding —
- (a) general conditions of employment, including engagement, transfer and termination of employment;
 - (b) job descriptions and the place of particular jobs within the structure of the undertaking;
 - (c) possibilities of training and prospects of advancement within the undertaking;
 - (d) general working conditions;
 - (e) occupational safety and health regulations and instructions for the prevention of accidents and occupational diseases;
 - (f) procedures for the examination of grievances as well as the rules and practices governing their operation and the conditions for having recourse to them;
 - (g) personnel welfare services (medical care, health, canteens, housing, leisure, savings and banking facilities, etc.);
 - (h) social security or social assistance schemes in the undertaking; (i) the regulations of national social security schemes to which the workers are subject by virtue of their employment in the undertaking;
 - (j) the general situation of the undertaking and prospects or plans for its future development;
 - (k) the explanation of decisions which are likely to affect directly or indirectly the situation of workers in the undertaking;
 - (l) methods of consultation and discussion and of cooperation between management and its representatives on the one hand and the workers and their representatives on the other.

(3) In the case of a question which has been the subject of negotiations between the employer and the workers or their representatives in the undertaking or of a collective agreement concluded at a level beyond that of the undertaking, the information should make express reference thereto.

Examination of Grievances Recommendation, 1967 (No. 130)

I. METHODS OF IMPLEMENTATION

1. Effect may be given to this Recommendation through national laws or regulations, collective agreements, works rules, or arbitration awards, or in such other manner consistent with national practice as may be appropriate under national conditions.

II. GENERAL PRINCIPLES

2. Any worker who, acting individually or jointly with other workers, considers that he has grounds for a grievance should have the right —

- (a) to submit such grievance without suffering any prejudice whatsoever as a result; and
- (b) to have such grievance examined pursuant to an appropriate procedure.

3. The grounds for a grievance may be any measure or situation which concerns the relations between employer and worker or which affects or may affect the conditions of employment of one or several workers in the undertaking when that measure or situation appears contrary to provisions of an applicable collective agreement or of an individual contract of employment, to works rules, to laws or regulations or to the custom or usage of the occupation, branch of economic activity or country, regard being had to principles of good faith.

4. (1) The provisions of this Recommendation are not applicable to collective claims aimed at the modification of terms and conditions of employment.

(2) The determination of the distinction between cases in which a complaint submitted by one or more workers is a grievance to be examined under the procedures provided for in this Recommendation and cases in which a complaint is a general claim to be dealt with by means of collective bargaining or under some other procedure for settlement of disputes is a matter for national law or practice.

5. When procedures for the examination of grievances are established through collective agreements, the parties to such an agreement should be encouraged to include therein a provision to the effect that, during the period of its validity, they undertake to promote settlement of grievances under the procedures provided and to abstain from any action which might impede the effective functioning of these procedures.

6. Workers' organizations or the representatives of the workers in the undertaking should be associated, with equal rights and responsibilities, with the employers or their organizations, preferably by way of agreement, in the establishment and implementation of grievance procedures within the undertaking, in conformity with national law or practice.

7. (1) With a view to minimizing the number of grievances, the greatest attention should be given to the establishment and proper functioning of a sound personnel policy, which should take into account and respect the rights and interests of the workers.

(2) In order to achieve such a policy and to solve social questions affecting the workers within the undertaking, management should, before taking a decision, cooperate with the workers' representatives.

8. As far as possible, grievances should be settled within the undertaking itself according to effective procedures which are adapted to the conditions of the country, branch of economic activity and undertaking

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concerned and which give the parties concerned every assurance of objectivity.

9. None of the provisions of this Recommendation should result in limiting the right of a worker to apply directly to the competent labour authority or to a labour court or other judicial authority in respect of a grievance, where such right is recognized under national laws or regulations.

III. PROCEDURES WITHIN THE UNDERTAKING

10. (1) As a general rule an attempt should initially be made to settle grievances directly between the worker affected, whether assisted or not, and his immediate supervisor.

(2) Where such attempt at settlement has failed or where the grievance is of such a nature that a direct discussion between the worker affected and his immediate supervisor would not be appropriate, the worker should be entitled to have his case considered at one or more higher steps, depending on the nature of the grievance and on the structure and size of the undertaking.

11. Grievance procedures should be so formulated and applied that there is a real possibility of achieving at each step provided for by the procedure a settlement of the case freely accepted by the worker and the employer.

12. Grievance procedures should be as uncomplicated and as rapid as possible, and appropriate time-limits may be prescribed if necessary for this purpose; formality in the application of these procedures should be kept to a minimum.

13. (1) The worker concerned should have the right to participate directly in the grievance procedure and to be assisted or represented during the examinations of his grievance by a representative of a workers' organization, by a representative of the workers in the undertaking, or by any other person of his own choosing, in conformity with national law or practice.

(2) The employer should have the right to be assisted or represented by an employers' organization.

(3) Any person employed in the same undertaking who assists or represents the worker during the examination of his grievance should, on condition that he acts in conformity with the grievance procedure, enjoy the same protection as that enjoyed by the worker under Paragraph 2, clause (a), of this Recommendation.

14. The worker concerned, or his representative if the latter is employed in the same undertaking, should be allowed sufficient time to participate in the procedure for the examination of the grievance and should not suffer any loss of remuneration because of his absence from work as a result of such participation, account being taken of any rules and practices,

including safeguards against abuses, which might be provided for by legislation, collective agreements or other appropriate means.

15. If the parties consider it necessary, minutes of the proceedings may be drawn up in mutual agreement and be available to the parties.

16. (1) Appropriate measures should be taken to ensure that grievance procedures, as well as the rules and practices governing their operation and the conditions for having recourse to them, are brought to the knowledge of the workers.

(2) Any worker who has submitted a grievance should be kept informed of the steps being taken under the procedure and of the action taken on his grievance.

IV. ADJUSTMENT OF UNSETTLED GRIEVANCES

17. Where all efforts to settle the grievance within the undertaking have failed, there should be a possibility, account being taken of the nature of the grievance, for final settlement of such grievance through one or more of the following procedures:

- (a) procedures provided for by collective agreement, such as joint examination of the case by the employers' and workers' organizations concerned or voluntary arbitration by a person or persons designated with the agreement of the employer and worker concerned or their respective organizations;
- (b) conciliation or arbitration by the competent public authorities;
- (c) recourse to a labour court or other judicial authority;
- (d) any other procedure which may be appropriate under national conditions.

18. (1) The worker should be allowed the time off necessary to take part in the procedures referred to in Paragraph 17 of this Recommendation.

(2) Recourse by the worker to any of the procedures provided for in Paragraph 17 should not involve for him any loss of remuneration when his grievance is proved justified in the course of these procedures. Every effort should be made, where possible, for the operation of these procedures outside the working hours of the workers concerned.

Termination of Employment Convention, 1982 (No. 158)

PART I. METHODS OF IMPLEMENTATION, SCOPE

AND DEFINITIONS

Article 1

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration

awards or court decisions or in such other manner as may be consistent with national practice, be given effect by laws or regulations.

Article 2

1. This Convention applies to all branches of economic activity and to all employed persons.

2. A Member may exclude the following categories of employed persons from all or some of the provisions of this Convention:

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

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

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

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

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

Article 3

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

PART II. STANDARDS OF GENERAL APPLICATION

DIVISION A. JUSTIFICATION FOR TERMINATION

Article 4

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

Article 5

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

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

Article 6

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

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

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

Article 7

The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an

opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

DIVISION C. PROCEDURE OF APPEAL AGAINST TERMINATION

Article 8

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

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

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

Article 9

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

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

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

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

Article 10

If the bodies referred to in Article 8 of this Convention find that termination is unjustified and if they are not empowered or do not find it

practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.

DIVISION D. PERIOD OF NOTICE

Article 11

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

DIVISION E. SEVERANCE ALLOWANCE AND OTHER
INCOME PROTECTION

Article 12

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

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

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

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

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

DIVISION A. CONSULTATION OF WORKERS' REPRESENTATIVES

Article 13

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

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

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

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

DIVISION B. NOTIFICATION TO THE COMPETENT AUTHORITY

Article 14

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

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

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

Termination of Employment Recommendation, 1982 (No. 166)

I. METHODS OF IMPLEMENTATION, SCOPE AND DEFINITIONS

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

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

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

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

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

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

3. (1) Adequate safeguards should be provided against recourse to contracts of employment for a specified period of time the aim of which is

to avoid the protection resulting from the Termination of Employment Convention, 1982, and this Recommendation.

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

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

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

II. STANDARDS OF GENERAL APPLICATION

Justification for termination

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

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

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

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

Procedure prior to or at the time of termination

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

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

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

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

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

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

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

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

Procedure of appeal against termination

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

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

Time off from work during the period of notice

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

Certificate of employment

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

Severance allowance and other income protection

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

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

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

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

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

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

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

Consultations on major changes in the undertaking

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

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

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

Measures to avert or minimize termination

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

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

Criteria for selection for termination

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

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

Priority of rehiring

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

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

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

Mitigating the effects of termination

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

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

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

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

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

IV. EFFECT ON EARLIER RECOMMENDATION

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

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

Article 1

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

Article 2

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organization 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 with the representative organizations, where such organizations 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 organizations, where such organizations 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 organizations, where such organizations 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 Organization;
- (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 Organization;
- (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 organizations, where such organizations exist, the competent authority shall issue an annual report on the working of the procedures provided for in this Convention.

Tripartite Consultation (Activities of the International Labour Organization) Recommendation, 1976 (No. 152)

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

2. (1) Each Member of the International Labour Organization should operate procedures which ensure effective consultations with respect to matters concerning the activities of the International Labour Organization, 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 organizations 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 Organization;
- (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 organizations.

(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 cooperation with the employers' and workers' organizations 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 Organization;
- (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 the collaboration of employers' and workers' representatives);

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- (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 Organization;
- (f) on proposals for the denunciation of ratified Conventions.

6. The competent authority, after consultation with the representative organizations, 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 Organization 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 Organization;
- (c) the promotion of a better knowledge of the activities of the International Labour Organization 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 coordination 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 organizations, the competent authority should issue an annual report on the working of the procedures provided for in this Recommendation.

5

RECOMMENDATION CONCERNING THE STATUS OF TEACHERS¹ (extracts)

Adopted by the Special Intergovernmental Conference on the Status of Teachers, Paris, 5 October 1966

Relations between teachers and the education service as a whole

75. In order that teachers may discharge their responsibilities, authorities should establish and regularly use recognized means of consultation with teachers' organizations on such matters as educational policy, school organization, and new developments in the education service.

¹ The Joint Committee of Experts on the Application of the Recommendation concerning the Status of Teachers was created by decision of the Governing Body of ILO at its 167th Session (November 1966) and by decision of the fourteenth session of the General Conference of UNESCO (1966). The Joint Committee was duly constituted following decisions of the Executive Board of UNESCO at its 77th Session (October-November 1967) and the Governing Body of ILO at its 170th Session (November 1967). Its first members were nominated at the Spring 1968 Sessions of both the Governing Body of ILO (172nd Session) and the Executive Board of UNESCO (78th Session). It held its first session in September 1968.

The executive bodies of the two organizations decided that the task of the Joint Committee was to examine the periodic reports submitted by governments of member States on the application of the 1966 Recommendation and to report thereon to the competent organs of the two organizations with a view to such separate but parallel action as these organs deemed appropriate. In the case of UNESCO, the report is submitted to the General Conference through the Executive Board and its Committee on Conventions and Recommendations. In the case of the ILO, the report is submitted through the Governing Body to the Committee on the Application of Conventions and Recommendations of the International Labour Conference.

Following its first session in 1968, the Joint Committee held ordinary sessions in 1970, 1976, 1982 and 1988.

76. Authorities and teachers should recognize the importance of the participation of teachers, through their organizations and in other ways, in steps designed to improve the quality of the education service, in educational research, and in the development and dissemination of new improved methods.

77. Authorities should facilitate the establishment and the work of panels designed, within a school or within a broader framework, to promote the cooperation of teachers of the same subject and should take due account of the opinions and suggestions of such panels.

78. Administrative and other staff who are responsible for aspects of the education service should seek to establish good relations with teachers and this approach should be equally reciprocated.

¹ *(Continuation of the note)*

Composition and term of office

The Joint Committee is composed of 12 independent experts designated and acting in their personal capacity, of whom six are nominated by the ILO and six by UNESCO. They are selected on the basis of their competence in the main fields covered by the Recommendation and their knowledge of the problems that may arise in its application. The members are drawn from all geographical regions, with due consideration to differences in educational and socio-economic systems, and as far as possible, equitable distribution between men and women. No two members may be designated from the same country. The members of the Joint Committee serve without honoraria; travel and per diem for attendance at special and ordinary sessions are financed by the two organizations.

Mandate of the Joint Committee

The mandate of the Joint Committee is:

- In accordance with established procedures, to examine:
 - (i) the reports from governments on the application of the 1966 Recommendation concerning the Status of Teachers;
 - (ii) studies and reports of the ILO and UNESCO on specific items of the 1966 Recommendation and on activities undertaken to promote knowledge and a better application of its provisions in areas requested by the Joint Committee;
 - (iii) reports by national organizations representing teachers and their employers, and similar international non-governmental organizations enjoying either observer status with the ILO or consultative status with UNESCO, in relation to the application of the 1966 Recommendation concerning the Status of Teachers.

These studies and reports are prepared at the initiative of the Joint Committee.

- To report on the application of the Recommendation on the basis of the examination of reports and studies to the competent bodies of the ILO and UNESCO with a view to such separate but parallel action as these organs deem appropriate.
- To recommend to the competent bodies of the ILO and UNESCO initiatives to promote a better understanding and implementation of the Recommendation.

Rights of teachers

79. The participation of teachers in social and public life should be encouraged in the interests of the teacher's personal development, of the education service and of society as a whole.

80. Teachers should be free to exercise all civic rights generally enjoyed by citizens and should be eligible for public office.

81. Where the requirements of public office are such that the teacher has to relinquish his teaching duties, he should be retained in the profession for seniority and pension purposes and should be able to return to his previous post or to an equivalent post after his term of public office has expired.

82. Both salaries and working conditions for teachers should be determined through the process of negotiation between teachers' organizations and the employers of teachers.

¹ *(Continuation of the note)*

Allegations

The 1966 Recommendation is not a binding legal instrument, and the role of the Joint Committee is not quasi-judicial. Nevertheless, an important function of the Joint Committee is the consideration of information on problems associated with the application of the Recommendation, and the encouragement of governments, employers' and teachers' organizations to adopt measures which would enhance the status of the teaching profession. The Joint Committee will continue the practice applied since its second ordinary session in 1970, and endorsed by the executive bodies of the ILO and UNESCO, whereby national and international teachers' organizations may submit to it allegations concerning the non-application of the provisions of the Recommendation in a given country.

To be receivable, any allegation must be related to the provisions of the Recommendation, must emanate from a national or international teachers' organization and must not fall within the competence of other bodies of the ILO and UNESCO established to monitor conventions or other international instruments.

On receipt of any allegation, the secretariat of the Joint Committee will submit it to the government of the country in question for its comments. Such comments will in turn be submitted to the organization(s) making the allegation for additional observations, and these will in turn be submitted to the government for its final remarks, if any. The allegation and all observations of the parties will then be submitted to the Joint Committee for examination, either at an ordinary or special session. In the event that a government which has been requested to make observations on an allegation submitted by a teachers' organization fails to respond within a reasonable time following the original communication and a reminder, the allegation may be submitted to the Joint Committee with a note that the Government has failed to respond. The Joint Committee's views will in turn be published as part of its report.

The Joint Committee's reports are submitted to the Governing Body of the ILO, with a request that the reports of its ordinary sessions be transmitted to the Committee on the Application of Conventions and Recommendations of the International Labour Conference, and to the Committee on Conventions and Recommendations of the Executive Board of UNESCO, for transmission to the General Conference.

[The following paragraphs have been extracted from Annex 1 of the report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the status of teachers, special session, Paris, 22-26 July—1991 (CEART/SP/1991/12).]

83. Statutory or voluntary machinery should be established whereby the right of teachers to negotiate through their organizations with their employer, either public or private, is assured.

84. Appropriate joint machinery should be set up to deal with the settlement of disputes between the teachers and their employers arising out of terms and conditions of employment. If the means and procedures established for these purposes should be exhausted or if there should be a breakdown in negotiations between the parties, teachers' organizations should have the right to take such other steps as are normally open to other organizations in the defence of their legitimate interests.

116. Teachers should be paid on the basis of salary scales established in agreement with the teachers' organizations. In no circumstances should qualified teachers during a probationary period or if employed on a temporary basis be paid on a lower salary scale than that laid down for established teachers.

123. (1) Salary scales for teachers should be reviewed periodically to take into account such factors as a rise in the cost of living, increased productivity leading to higher standards of living in the country or a general upward movement in wage or salary levels.

(2) Where a system of salary adjustments automatically following a cost-of-living index has been adopted, the choice of index should be determined with the participation of the teachers' organizations and any cost-of-living allowance granted should be regarded as an integral part of earnings taken into account for pension purposes.

124. No merit rating system for purposes of salary determination should be introduced or applied without prior consultation with and acceptance by the teachers' organizations concerned.

6

TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY¹

(extracts)

Adopted by the Governing Body of the International Labour Office at its 204th Session, Geneva, November 1977²

The Governing Body of the International Labour Office:

¹In the "Procedure for the examination of disputes concerning the application of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy by means of interpretation of its provisions" (adopted by the Governing Body of the International Labour Office at its 232nd Session (Geneva, March 1986)), the following was stated in the first two paragraphs:

1. The purpose of the procedure is to interpret the provisions of the Declaration when needed to resolve a disagreement on their meaning, arising from an actual situation, between parties to whom the Declaration is commended.

2. The procedure should in no way duplicate or conflict with existing national or ILO procedures. Thus, it cannot be invoked:

- (a) in respect of national law and practice;
- (b) in respect of international labour Conventions and Recommendations;
- (c) in respect of matters falling under the freedom of association procedure.

The above means that questions regarding national law and practice should be considered through appropriate national machinery; that questions regarding international labour Conventions and Recommendations should be examined through the various procedures provided for in articles 19, 22, 24 and 26 of the Constitution of the ILO, or through government requests to the Office for informal interpretation; and that questions concerning freedom of association should be considered through the special ILO procedures applicable to that area.

²*Official Bulletin* (Geneva, ILO), 1978, Vol. LXI, Series A, No. 1, pp. 49-56.

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Hereby approves the following Declaration which may be cited as the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office, and invites governments of States Members of the ILO, the employers' and workers' organizations concerned and the multinational enterprises operating in their territories to observe the principles embodied therein.

1. Multinational enterprises play an important part in the economies of most countries and in international economic relations. This is of increasing interest to governments as well as to employers and workers and their respective organizations. Through international direct investment and other means such enterprises can bring substantial benefits to home and host countries by contributing to the more efficient utilization of capital, technology and labour. Within the framework of development policies established by governments, they can also make an important contribution to the promotion of economic and social welfare; to the improvement of living standards and the satisfaction of basic needs; to the creation of employment opportunities, both directly and indirectly; and to the enjoyment of basic human rights, including freedom of association, throughout the world. On the other hand, the advances made by multinational enterprises in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives and with the interest of the workers. In addition, the complexity of multinational enterprises and the difficulty of clearly perceiving their diverse structures, operations and policies sometimes give rise to concern either in the home or in the host countries, or in both.

General policies

8. All the parties concerned by this Declaration should respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards. They should respect the Universal Declaration of Human Rights and the corresponding International Covenants adopted by the General Assembly of the United Nations as well as the Constitution of the International Labour Organization and its principles according to which freedom of expression and association are essential to sustained progress. They should also honour commitments which they have freely entered into, in conformity with the national law and accepted international obligations.

9. Governments which have not yet ratified Conventions Nos. 87, 98, 111 and 122 are urged to do so and in any event to apply, to the greatest extent possible, through their national policies, the principles embodied

therein and in Recommendations Nos. 111, 119 and 122.³ Without prejudice to the obligation of governments to ensure compliance with Conventions they have ratified in countries in which the Conventions and Recommendations cited in this paragraph are not complied with, all parties should refer to them for guidance in their social policy.

Industrial relations

40. Multinational enterprises should observe standards of industrial relations not less favourable than those observed by comparable employers in the country concerned.

Freedom of association and the right to organize

41. Workers employed by multinational enterprises as well as those employed by national enterprises should, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. They should also enjoy adequate protection against acts of anti-union discrimination in respect of their employment.⁵

42. Organizations representing multinational enterprises or the workers in their employment should enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.⁶

43. Where appropriate, in the local circumstances, multinational enterprises should support representative employers' organizations.

44. Governments, where they do not already do so, are urged to apply the principles of Convention No. 87, Article 5, in view of the importance, in relation to multinational enterprises, of permitting organizations representing such enterprises or the workers in their employment to affiliate with international organizations of employers and workers of their own choosing.

45. Where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any

³ Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Employment Policy Convention, 1964 (No. 122); Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111); Termination of Employment Recommendation, 1963 (No. 119); Employment Policy Recommendation, 1964 (No. 122).

⁴ Convention No. 87, Article 2.

⁵ Convention No. 98, Article 1 (1).

⁶ Convention No. 98, Article 2 (1).

limitation of the workers' freedom of association or the right to organize and bargain collectively.

46. Representatives of the workers in multinational enterprises should not be hindered from meeting for consultation and exchange of view among themselves, provided that the functioning of the operations of the enterprise and the normal procedures which govern relationships with representatives of the workers and their organizations are not thereby prejudiced.

47. Governments should not restrict the entry of representatives of employers' and workers' organizations who come from other countries at the invitation of the local or national organizations concerned for the purpose of consultation on matters of mutual concern, solely on the grounds that they seek entry in that capacity.

Collective bargaining

48. Workers employed by multinational enterprises should have the right, in accordance with national law and practice, to have representative organizations of their own choosing recognized for the purpose of collective bargaining.

49. Measures appropriate to national conditions should be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.⁷

50. Multinational enterprises, as well as national enterprises, should provide workers' representatives with such facilities as may be necessary to assist in the development of effective collective agreements.⁸

51. Multinational enterprises should enable duly authorized representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorized to take decisions on the matters under negotiation.

52. Multinational enterprises, in the context of bona fide negotiations with the workers' representatives on conditions of employment, or while workers are exercising the right to organize, should not threaten to utilize a capacity to transfer the whole or part of an operating unit from the country concerned in order to influence unfairly those negotiations or to hinder the exercise of the right to organize; nor should they transfer workers from

⁷ Convention No. 98, Article 4.

⁸ Workers' Representatives Convention, 1971 (No. 135).

affiliates in foreign countries with a view to undermining bona fide negotiations with the workers' representatives or the workers' exercise of their right to organize.

53. Collective agreements should include provisions for the settlement of disputes arising over their interpretation and application and for ensuring mutually respected rights and responsibilities.

54. Multinational enterprises should provide workers' representatives with information required for meaningful negotiations with the entity involved and, where this accords with local law and practices, should also provide information to enable them to obtain a true and fair view of the performance of the entity or, where appropriate, of the enterprise as a whole.⁹

55. Governments should supply to the representatives of workers' organizations on request, where law and practice so permit, information on the industries in which the enterprise operates, which would help in laying down objective criteria in the collective bargaining process. In this context, multinational as well as national enterprises should respond constructively to requests by governments for relevant information on their operations.

Consultation

56. In multinational as well as in national enterprises, systems devised by mutual agreement between employers and workers and their representatives should provide, in accordance with national law and practice, for regular consultation on matters of mutual concern. Such consultation should not be a substitute for collective bargaining.¹⁰

Examination of grievances

57. Multinational as well as national enterprises should respect the right of the workers whom they employ to have all their grievances processed in a manner consistent with the following provision: any worker who, acting individually or jointly with other workers, considers that he has grounds for a grievance should have the right to submit such grievance without suffering any prejudice whatsoever as a result, and to have such grievance examined pursuant to an appropriate procedure.¹¹ This is particularly important whenever the multinational enterprises operate in countries which do not abide by the principles of ILO Conventions pertaining to freedom of

⁹ Communications within the Undertaking Recommendation, 1967 (No. 129).

¹⁰ Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94); Communications within the Undertaking Recommendation, 1967 (No. 129).

¹¹ Examination of Grievances Recommendation, 1967 (No. 130).

association, to the right to organize and bargain collectively and to forced labour.¹²

Settlement of industrial disputes

58. Multinational as well as national enterprises jointly with the representatives and organizations of the workers whom they employ should seek to establish voluntary conciliation machinery, appropriate to national conditions, which may include provisions for voluntary arbitration, to assist in the prevention and settlement of industrial disputes between employers and workers. The voluntary conciliation machinery should include equal representation of employers and workers.¹³

¹² Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35).

¹³ Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92).

7

INTERNATIONAL LABOUR CONFERENCE RESOLUTIONS¹

RESOLUTION CONCERNING THE INDEPENDENCE OF THE TRADE UNION MOVEMENT

Adopted on 26 June 1952

Whereas the International Labour Conference at its recent session has formulated in international Conventions and Recommendations principles for the establishment of freedom of association and good industrial relations,

¹ In addition to the two resolutions set out in the following pages, the International Labour Conference has adopted several other resolutions concerning trade union rights and industrial relations; of these, the following merit emphasis:

Resolution concerning consultation and cooperation between employers and workers at the level of the undertaking (1952);

Resolution concerning the abolition of anti-trade union legislation in the member States of the International Labour Organization (1957);

Resolution concerning freedom of association and the protection of the right to organize, including the protection of representatives of trade unions at all levels (1961);

Resolution concerning freedom of association (1964);

Resolution concerning action by the International Labour Organization in the field of human rights and in particular with respect to freedom of association (1968);

Resolution on labour and social implications of automation and other technological developments (1972), etc

Resolutions concerning trade union rights and industrial relations have also been adopted at ILO regional conferences, in industrial committees and in similar bodies (see, for example, *International standards and guiding principles 1944-1973*, Labour-Management Relations Series No. 44, Geneva, International Labour Office, 1975, pp. 92-342).

ILO law on freedom of association

Whereas a stable, free and independent trade union movement is an essential condition for good industrial relations and should contribute to the improvement of social conditions generally in each country,

Whereas the relations between the trade union movement and political parties will inevitably vary for each country, and

Whereas any political affiliation or political action by the trade unions depends on national conditions in each country,

Considering nevertheless that there are certain principles which should be laid down in this regard which are essential to protect the freedom and independence of the trade union movement and its fundamental task of advancing the social and economic well-being of the workers,

the International Labour Conference at its 35th Session adopts this twenty-sixth day of June 1952 the following resolution;

1. The fundamental and permanent mission of the trade union movement is the economic and social advancement of the workers.

2. The trade unions also have an important role to perform in cooperation with other elements in promoting social and economic development and the advancement of the community as a whole in each country.

3. To these ends it is essential for the trade union movement in each country to preserve its freedom and independence so as to be in a position to carry forward its economic and social mission irrespective of political changes.

4. A condition for such freedom and independence is that trade unions be constituted as to membership without regard to race, national origin or political affiliations and pursue their trade union objectives on the basis of the solidarity and economic and social interests of all workers.

5. When trade unions in accordance with national law and practice of their respective countries and at the decision of their members decide to establish relations with a political party or to undertake constitutional political action as a means towards the advancement of their economic and social objectives, such political relations or actions should not be of such a nature as to compromise the continuance of the trade union movement or its social and economic functions irrespective of political changes in the country.

6. Governments in seeking the cooperation of trade unions to carry out their economic and social policies should recognize that the value of this cooperation rests to a large extent on the freedom and independence of the trade union movement as an essential factor in promoting social advancement and should not attempt to transform the trade union movement into

an instrument for the pursuance of political aims, nor should they attempt to interfere with the normal functions of a trade union movement because of its freely established relationship with a political party.

RESOLUTION CONCERNING TRADE UNION RIGHTS AND THEIR RELATION TO CIVIL LIBERTIES

Adopted on 25 June 1970

The General Conference of the International Labour Organization,

Considering that the preamble to the Constitution of the International Labour Organization proclaims recognition of the principle of freedom of association as one of the objectives of the Organization,

Considering that the Declaration of Philadelphia, an integral part of the Constitution, proclaims that freedom of expression and of association are essential to sustained progress and refers to other fundamental human rights inherent in human dignity,

Considering that the International Labour Organization has laid down basic standards of freedom of association for trade union purposes in 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),

Considering that without national independence and political liberty full and genuine trade union rights could not exist,

Considering that trade unions, provided they enjoy their full rights, are an essential factor for the attainment of the objective of economic, social and cultural progress stated in the Constitution of the ILO,

Considering that the rights of workers' and employers' organizations and of human beings in general flourish in a climate of social and economic progress,

Considering that the advancement of the rights of workers' and employers' organizations is linked both to national social and economic development and to national, regional and international legislation,

Considering that, according to Article 8 of the Freedom of Association and Protection of the Right to Organize Convention, 1948, workers, employers and their organizations should respect the law of the land in exercising the rights provided for in that Convention, but the law of the land should not be such as to impair, nor should it be so applied as to impair, the guarantees provided for in the Convention, and that this principle should also be respected when trade unions assume responsibility in the interests of the common welfare,

Recalling earlier calls by the Conference for reinforcing the action and machinery of the International Labour Organization for the protection of trade union rights, more particularly the resolution concerning freedom of association, adopted on 9 July 1964, and the resolution concerning action by the International Labour Organization in the field of human rights and in particular with respect to freedom of association, adopted on 24 June 1968,

Considering the evolution which has taken place in various fields and the fact that the present session of the Conference has dealt with the question of protection and facilities afforded to workers' representatives,

Regretting that forty-five Members of the International Labour Organization have not yet ratified the Freedom of Association and Protection of the Right to Organize Convention, 1948, and that thirty-two Members have not yet ratified the Right to Organize and Collective Bargaining Convention, 1949, and deploring that some of these States violate and infringe the principles laid down in these instruments,

Deploring also that amongst the member States which have ratified these Conventions some do not yet apply them fully and others violate them,

Considering that the supervisory machinery of the ILO, and particularly the Governing Body Committee on Freedom of Association, on the basis of existing standards, has taken supplementary decisions concerning infringements of trade union rights which refer also to specific civil liberties,

Considering that the possibilities of protecting trade union rights would be strengthened if the ILO gave the widest publicity to these decisions,

Considering that the question of the protection of civil liberties as such comes within the purview of the United Nations on the basis of the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and that the speedy ratification and application of these Covenants is of the utmost importance as a means of reinforcing the protection of trade union rights,

Considering that there exist firmly established, universally recognized principles, defining the basic guarantees of civil liberties which should constitute a common standard of achievement for all peoples and all nations, enunciated in particular in the Universal Declaration of Human Rights and the International Covenants on Human Rights, but that the observance of the standards

embodied in the Covenants will become a binding obligation for States only when the Covenants are ratified and enter into force,

Considering that war, colonial or neo-colonial domination and racial discrimination are major obstacles to the welfare of workers and a flagrant impediment to the work of the International Labour Organization,

Considering that international measures to provide more effective protection for specific civil liberties by the United Nations would reinforce the action of the International Labour Organization for the protection of trade union rights;

1. Recognizes that the rights conferred upon workers' and employers' organizations must be based on respect for those civil liberties which have been enunciated in particular in the Universal Declaration of Human Rights and in the International Covenants on Civil and Political Rights and that the absence of these civil liberties removes all meaning from the concept of trade union rights.

2. Places special emphasis on the following civil liberties, as defined in the Universal Declaration of Human Rights, which are essential for the normal exercise of trade union rights:

- (a) the right to freedom and security of person and freedom from arbitrary arrest and detention;
- (b) freedom of opinion and expression and in particular freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers;
- (c) freedom of assembly;
- (d) the right to a fair trial by an independent and impartial tribunal;
- (e) the right to protection of the property of trade union organizations.

3. Reaffirms the ILO's specific competence within the United Nations system in the field of freedom of association and trade union rights (principles, standards, supervisory machinery) and of related civil liberties.

4. Emphasizes the responsibility of the United Nations for protecting and promoting human rights in general political freedoms and civil liberties throughout the world.

5. Expresses its deep concern about and condemns the repeated violations of trade union rights and other human rights.

6. Calls upon all member States which have not done so to ratify and apply the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and invites the United Nations also to seek this.

ILO law on freedom of association

7. Invites the Governing Body to pursue energetically the efforts of the ILO with a view to total decolonization along the lines of the Declaration adopted on this subject by the United Nations.

8. Invites the Governing Body to extend and expand its efforts to eliminate the discriminatory practices on the basis of race, colour, sex, religion, nationality, political and trade union opinion which still exist in several countries, including countries and territories under a colonial regime or foreign domination in any form.

9. Reaffirms its belief in the principles which inspired 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), and strongly urges that all member States which have not already done so ratify these Conventions and, pending ratification, that they ensure that the principles embodied in these Conventions are observed and that they respect the principles enshrined in these Conventions in the enactment of their national legislation.

10. Invites the Governing Body of the ILO to take as soon as possible the necessary steps, pursuant to the resolution of 1964, with a view to including in the Constitution of the ILO the essential principles contained in these Conventions concerning trade union freedom.

11. Invites the Governing Body to instruct the Director-General to publish and distribute widely in a concise form the supplementary decisions taken by the Committee on Freedom of Association.

12. Invites the Governing Body to ensure wider knowledge of ILO principles and standards concerning trade union rights, using to this end, in particular, regional conferences, seminars, programmes for workers' and management education, etc.

13. Invites the Director-General of the ILO to express the support of the ILO for the action of the United Nations in the field of human rights and to draw the attention of the appropriate United Nations bodies to the relationship which exists between trade union rights and civil liberties.

14. Invites the Governing Body to undertake all efforts with a view to strengthening the ILO machinery for securing the observance by member States of ILO principles concerning freedom of association and trade union rights.

15. Invites the Governing Body to instruct the Director-General to undertake further comprehensive studies and to prepare reports on law and practice in matters concerning freedom of association and trade union rights and related civil liberties falling within the competence of the ILO, with a view to considering further action to ensure full and universal respect for trade union rights in their broadest sense; for this purpose particular attention should be given to the following questions:

- right of trade unions to exercise their activities in the undertaking and other workplaces;
 - right of trade unions to negotiate wages and all other conditions of work;
 - right of participation of trade unions in undertakings and in the general economy;
 - right to strike;
 - right to participate fully in national and international trade union activities;
 - right to inviolability of trade union premises as well as of correspondence and telephonic conversations;
 - right to protection of trade union funds and assets against intervention by the public authorities;
 - right of trade unions to have access to media of mass communication;
 - right to protection against any discrimination in matters of affiliation and trade union activities;
 - right of access to voluntary conciliation and arbitration procedures; -
- right to workers' education and further training.

16. Invites the Governing Body, taking into account the studies and reports prepared by the ILO, to place on the agenda of a forthcoming session of the International Labour Conference one or more questions which could be the subject of new instruments with a view to enlarging trade union rights, taking into account those civil liberties which are a prerequisite for their exercise.

