



**REPUBLIC OF KENYA**

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***Sessional Paper No. 1 of 1995***

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**INTERNATIONAL LABOUR ORGANIZATION**

**Proposed Actions**

**by the**

**REPUBLIC OF KENYA**

**on the**

**CONVENTIONS AND RECOMMENDATIONS**

**adopted by the**

**INTERNATIONAL LABOUR CONFERENCE**

**at the**

**65TH TO 80TH SESSIONS (1993)**

## SESSIONAL PAPER NO. 1 OF 1995

### Convention No. 152

#### **CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK**

This Convention revises the Protection Against Accidents (Dockers) Convention (Revised) No. 32 of 1932. It provides improved protection for dock workers who are now exposed to increasing Occupational Safety and Health Hazards caused by rapid technological changes in dock-work.

The instrument provides more details on technical and administrative measures required to secure safety and health of dock-workers than those contained in the 1932 Convention.

### Convention No. 153

#### **CONCERNING THE HOURS OF WORK AND REST PERIOD IN ROAD TRANSPORT**

The Convention revises the Hours of Work and Rest Periods (Road Transport) Convention No. 67 of 1939. It applies to wage-earning drivers or motor vehicles engaged in the internal and international transport by road of goods or passengers. It also applies to owners and members of their families when working as drivers of such vehicles.

The Convention prescribes maximum total driving time of nine hours per day, including overtime, and 48 hours per week. It limits the period of continuous driving without break to four hours. The Convention further provides for a daily rest of at least ten consecutive hours during any 24 hours period starting from the beginning of the working day.

To ensure effective application of the Convention, the competent authority is required among others, to provide for an individual control book and to prescribe conditions of its issue, and lay down procedures for notification of the hours worked. It is also required to establish an adequate inspection system and to prescribe appropriate penalties in the event of breaches of the requirements of the Convention.

The application of the Convention to owners of motor vehicles and to non-wage earning members of their families is incompatible with our established practices and regulations. Moreover, while realizing that the envisaged limits are desirable for the interests of safety of both the drivers and other road users it is the Government's view that the provisions of the Convention would pose practical enforcement problems in any future legislative provisions. For these reasons, the Government does not intend to ratify this Convention.

Convention No. 154

**CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING**

The Convention aims at promoting free collective bargaining to make greater efforts to achieve the objectives of the previous standards, particularly the general principles set out in the right to organize and Collective Bargain Convention No. 98 (1949) and Recommendation No. 92 (1951) concerning Voluntary Conciliation and Arbitration.

The Convention besides detailing its scope and purpose stipulates measures needed to promote, free and voluntary bargaining at all levels. It is intended to apply to all branches of economic activity.

Our public sector does not at the moment enjoy free collective bargaining as stipulated in the Convention. The extent to which the Convention would apply to Armed Forces and Police is also not clear.

In law and practice, we do fully comply with the provision of the Convention except in the Public Service, Police and Armed Forces. The Government, therefore, does not intend to ratify this Convention for the time being.

Convention No. 155

**CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT**

The Convention applies to all branches of economic activity in which workers are employed including public service.

Ratifying States may, however, after prior consultation with the representatives of the employers and workers concerned, exclude from its application, in part, or in whole, particular branches of economic activity, such as marine shipping or fishing, in respect of which special problem of substantial nature arise.

Arrangements are provided for under which workers shall be given adequate information and appropriate training and be able to enquire into and be consulted by the employer on all aspects of occupational safety and health associated with their work. The Convention also require employers to ensure that work places, machinery, equipment and processes under their control and also mechanical, physical and biological changes and substances used within the undertaking are safe without risk to safety and health.

The prevention of occupational health hazard, promotion of safety and improvement of working environment are of primary importance to the working population. However, our labour and factory inspection services would need more resources and manpower to be able to adequately supervise the application of the provisions of the instrument. In view of the above, the Government does not intend to ratify this Convention for the time being.

Convention No. 156

**CONCERNING EQUAL OPPORTUNITIES AND TREATMENT FOR MEN AND WOMEN WORKERS WITH FAMILY RESPONSIBILITIES**

Recognizing that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies and also recognizing the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, the Convention requires ratifying States to make it the aim of national policy to enable those with family responsibilities to exercise their right to engage in employment without being subject to discrimination, and to extent possible without conflict between their employment and their family responsibilities.

It calls upon governments to provide measures compatible with national conditions to enable workers with such responsibilities to exercise their right to the free choice of employment; taking account of their need in terms of conditions of employment and social security. It also calls upon governments to develop public or community services such as child care and family services and also facilities to enable workers with family responsibilities to become and remain integrated in the labour force after absence due to their family responsibilities.

The standards set by this Convention can only be aspired to by developing countries like Kenya. The requirements are such that the Government and the employers cannot afford. In the light of serious unemployment situation we are facing, we should be more concerned about creating new jobs to reduce unemployment instead of over protecting those who are in the employment. For these reasons, it is not intended to ratify the Convention for the time being.

Convention No. 157

**CONCERNING THE ESTABLISHMENT OF AN INTERNATIONAL SYSTEM FOR THE MAINTENANCE OF RIGHTS IN SOCIAL SECURITY**

The aim of this Convention is improved social protection for millions of workers who for various reasons work or live in countries other than their own.

The general objective of the instrument is to promote flexible arrangements between national social security schemes taking account of the differences between their level of development.

The benefits, the servicing of which is subject to diverse conditions of the reciprocity involve all contingencies now included in the modern concept of social security such as sickness, maternity, invalidity, old age, death of breadwinner, including rehabilitation benefits linked to one of the contingencies.

The Convention itemizes methods of adding together periods of insurance employment, occupational activity or residence for maintenance of rights. In particular it provides that each member State shall guarantee the provisions of invalidity old age and survivors cash benefits, pension in respect of employment injuries and death grants under its legislation, to beneficiaries who are national of other member States or refugees or Stateless person.

Apart of the instrument is devoted to administrative assistance and aid to persons covered by the Convention. It stipulates that authorities and institutions of member States shall afford one another assistance with a view to facilitating the application of the Convention, and that each member State shall promote the development of social services capable of assisting migrant workers in dealing with appropriate authorities in connection with their acquired rights.

Our social security is still under-developed to the extent that there are a number of benefits envisaged by the Convention that are not yet covered. The administration and enforcement of the system outlined in the Convention would pose major difficulties. It is, therefore, not intended to ratify the Convention for the time being.

#### **Convention No. 158**

#### **CONCERNING TERMINATION OF EMPLOYMENT AT THE INITIATIVE OF THE EMPLOYER AND CORRESPONDING RECOMMENDATION No. 166**

The Convention assures guarantees to workers threatened with or affected by termination by stipulating the requirements for the existence of a valid reason for termination connected with capacity or conduct of the worker or based on operational requirements of the undertaking. It sets out a procedure whereby the worker can defend himself and appeal to an impartial body if he considers his termination to be unjustified.

The instrument also stipulates that a worker should not bear also the burden of proving that termination was not justified. It offers two alternatives in this respect; either the burden of proving the existence of a valid reason shall rest with the employer, or the competent bodies shall be empowered to reach conclusion having regard to evidence by parties in conformity with national law and practice.

Among the reasons that are not valid for termination, the Convention lists in particular, union membership or participation in union activities, seeking office as or acting or having acted as a workers' representative, filing of a complaint or participating in proceedings against an employer, race, colour, sex, marital status, family responsibility, pregnancy, religion, political opinion, national extraction or social origin and absence from work during maternity leave.

The Convention contains supplementary provisions concerning termination of employment for economic, technological and structural reason. The

existing law and practice including the role of the Industrial Court, adequately covers the requirements of this Convention. In a liberalized economy, however, we need to have a more detailed and careful study of the full implications of this Convention if ratified by a developing country such as Kenya. The Government does not therefore intend to ratify this Convention for the time being.

#### **Recommendation 160**

#### **CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK**

This recommendation revises the protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) and supplements the Occupational Safety and Health (Dock Work) Convention No. 152. Member States wishing to adopt the instrument are expected to adopt measures to secure safety and health of dock workers than those contained in the Convention No. 32.

Presently, our Directorate of Occupational Health and Safety Services does not have the capacity and resources needed to fully meet the requirement of the instrument. For this reason, the Government does not intend to adopt Recommendation 160.

#### **Recommendation 161**

#### **CONCERNING HOURS OF WORK AND REST AND PERIOD IN ROAD TRANSPORT**

The recommendation supplements its corresponding Convention No. 153. It provides detailed guidelines for the regulation of hours of work, rest periods, break, rest days, overtime and driving time. It also applies to owners and members of their families when working on such vehicle. Specified transport activities may, however, be excluded from its provision provided alternative standards on hours of work and rest periods are prescribed.

It recommends the limitation of continuous driving time without break to four hours subject to a maximum of five hours and further recommends a gradual limitation of hours of work 40 hours per week from a maximum of 48 hours. It sets a minimum duration of 24 consecutive hours of rest per week preceded or followed by the daily rest.

The competent authority of a Member State is required to an individual control book and conditions of its issue, content and the manner in which it shall be kept by drivers; and to lay down procedures for authorizing the hour that may be worked and make provision for an adequate inspection system.

These are extremely difficult to meet and enforce. For these reasons the Government does not intend to ratify this Convention.



## Recommendation 162

### **CONCERNING OLDER WORKERS**

The recommendation applies to all workers liable to meet difficulties in employment and occupation due to advancing age. The governments are required to take measures formulated in co-operation with employers' and workers organizations to prevent discrimination against older workers in such matters as choice of employment, social and working conditions. Member States are required to establish well balanced policies and strategies for full employment, due attention being given to all population groups so as to ensure that employment problems are not shifted from one group to another.

It requires that equality of treatment of workers, whatever their age, should be promoted in law and practice. It also provides that appropriate measures should be devised to enable older workers to continue in employment under satisfactory conditions. The instrument further provides that whenever possible, measures should be taken to ensure gradual transition from working life to retirement and that pensionable age should be flexible.

The standards set by the instrument are too high if not irrelevant to our national situation, where unemployment, in general and among the youth in particular, is the Government's most pressing problem. It would not be proper under our national conditions to protect the older workers against the nation's youth. The Government does not therefore, intend to adopt this recommendation.

## Recommendation 163

### **CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING**

The recommendation is supplementary to its corresponding Convention No. 158. Since we do not have any form of free collective bargaining in the public sector, the Government does not intend to adopt this recommendation for the time being.

## Recommendation 164

### **CONCERNING OCCUPATIONAL HEALTH AND WORKING ENVIRONMENT**

This recommendation is meant to supplement Convention No. 155 on Occupational Safety and Health. Member States who adopt the recommendation are expected to make arrangements under which workers would be given adequate information and appropriate training and be able to enquire into and be consulted by the employer on all aspects of occupational safety and health at their work place.

Although the prevention of occupational health hazards, promotion of safety and improvement of working environment are of primary importance

to the working population, our labour and factory inspection services would need more resource in order to meet the requirements of the instrument. In view of the above, the Government does not intend to adopt this recommendation.

## Recommendation 165

### **CONCERNING EQUAL OPPORTUNITIES AND EQUAL TREATMENT FOR MEN AND WOMEN WORKERS: WORKERS WITH FAMILY RESPONSIBILITIES**

The recommendation is supplementary to its corresponding Convention No. 156.

The requirement set out in the instrument are too high for the developing countries like Kenya. We do not therefore, intend to adopt the recommendation.

Convention No. 159 (1983) and Recommendation No. 168 (1983)

### **CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)**

This Convention seeks to improve the quality of life for the disabled persons in society. It stipulates that Member States, shall consider the purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

The Convention provides that each member State shall, in accordance with national conditions and practice, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons, in consultation with representatives of organisations of employers and workers. In this regard, the representative organisations of and for disabled persons shall also be consulted.

Although there is nothing in our law and practice that is in conflict with the provisions of the above Convention or Recommendation No. 168, the Government does not intend to ratify or adopt any of the two instruments until the full implications of the two instruments have been studied in great detail.

## Recommendation 166

### **CONCERNING TERMINATION OF EMPLOYMENT**

The recommendation applies to all branches of economic activity and to all employed persons and provides that Member States who adopt it may exclude certain categories of employed persons from all or some of the provisions of the instrument. These include:

- (a) Workers engaged under a contract of employment for a specific period of task.
- (b) Workers serving on probation.
- (c) Casual workers.

The instrument sets out various grounds for justified termination, procedures prior to or at the time of termination, appeal, severance payments and other income protection, measures to avert or minimize termination, priority and rehiring and mitigating the effects of termination.

The standards that the instrument sets out through the elaborate provisions and procedures are too high for a developing country like Kenya and are not in total conformity with our national laws and practice. For instance, the procedures for termination set out in the instrument is in direct conflict with our current national policy with regard to redundancy.

In view of the foregoing, the Government does not intend, for the time being, to ratify Recommendation No. 166.

#### Recommendation 167

#### **CONCERNING THE ESTABLISHMENT OF AN INTERNATIONAL SYSTEM FOR THE MAINTENANCE OF RIGHTS IN SOCIAL SECURITY**

The recommendation provides that ILO Member States should conclude among themselves, appropriate administrative or financial arrangements to remove possible obstacles to the provision of invalidity, old-age, survivors' benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under the legislation by beneficiaries who are nationals of a Member State or refugee or Stateless persons resident abroad.

The standards set up in this recommendation are too high for developing countries like ours where unemployment is still our major problem. Furthermore, our social security schemes at this state is nowhere near the social security systems the recommendation is concerned with. It is therefore, not intended to adopt the recommendation.

#### Recommendation 168

#### **CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)**

The instrument provides for vocational rehabilitation and employment opportunities, community participation, vocational rehabilitation in rural areas, training of staff and the contribution of employers', workers' and other organizations to the development of vocational rehabilitation services.

Members who adopt the instrument are expected to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons in consultation with organization of workers and employers.

Although a great deal has been done by both the Government and some private institutions in Kenya, a lot still remains to be done in the field of vocational rehabilitation. In view of the above, the Government does not intend, for the time being, to adopt Recommendation No. 168.

#### Recommendation 169

#### **CONCERNING EMPLOYMENT POLICY**

Members States wishing to adopt this instrument are required to give special attention to the most efficient means of increasing employment and production and to draw up policies and programmes designed to facilitate the increased production and fair distribution of essential goods and services as well as income throughout the country, with a view to satisfying the basic needs of the population.

At this stage of our economic development and taking into account the present world economic situation together with effects of certain economic reform programmes that the country is undergoing, and also taking into account the demands of the instrument, the Government does not, for the time being, intend to adopt Recommendation No. 169.

#### Convention No. 160

#### **CONCERNING LABOUR STATISTICS**

Convention No. 160 concerning labour statistics requires ratifying Member States to collect, compile and publish labour statistics to cover the following systems—

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

Ratifying Member States are expected to ensure that the statistics on above subjects are compiled in such a way as to be representative of the country as a whole.

In designing or revising the concepts, definitions and methodology used in collection, compilation and publication of such statistics, ratifying

Member States are required to consult with the representative organizations of employers and workers.

Although the Government (i.e. through the Central Bureau of Statistics and the Ministry of Labour), has an elaborate machinery to collect nearly all the statistical data as stipulated in the labour instruments, the required resources to publish the same are not always available.

Again, and in view of the fact that most of the statistical data as stipulated in the above two instruments is not always available (and in the detail in which the above instruments stipulate), the Government sees no urgency in ratifying Convention No. 160 for the time being.

#### Recommendation No. 170

#### CONCERNING LABOUR STATISTICS

The recommendation covers various labour statistics which member states who adopt it are expected to compile and publish. These include statistics of the Economically Active Population, Employment, Unemployment and Underemployment, Wages and Hours of Work, Consumer Price Indices, Household Expenditure and Income, Occupational Injuries and Diseases, Industrial Disputes and Productivity. The Recommendation requires member-states who adopt it to progressively develop an appropriate national statistical infrastructure which should include:

- (a) a comprehensive and up-to-date register of establishments for the purpose of surveys or censuses;
- (b) a co-ordinated system for the implementation of surveys;
- (c) a capability for the implementation of a continuous and co-ordinated series of national surveys of households or individual; and
- (d) access for statistical purpose, to administrative records (with appropriate safeguards for their confidentiality).

Although the Government (through the Central Bureau of Statistics and the Ministry of Labour and Manpower Development) has an elaborate machinery to collect nearly all the statistical data as stipulated in the instrument, the required manpower and resources to publish the same are not always available.

Again, and in view of the fact that most of the statistical data as stipulated in the above two instruments is not always available (and in the detail stipulated) the Government does not intend, for the time being, to adopt Recommendation No. 170.

#### Convention No. 161

#### CONCERNING OCCUPATIONAL HEALTH SERVICES

The instrument requires ratifying member States to formulate and periodically review, a coherent national policy on occupational health services.

They also call upon the ratifying member States to undertake to develop occupational health services for all workers. They also require that if occupational health services cannot be immediately established for all under-takings, the ratifying State concerned should draw up plans for the establishment of such services. They further require that there should be appropriate inspection services for the purpose of supervising the application of its various provisions.

In Kenya, the provisions of the Factories Act provides, to certain extent, the protection measures envisaged by these instruments. The type of occupational health services envisaged in the instruments do exist only in the form of three medical doctors and four nurses.

Due to a shortage of resources, the Government has only been able to provide occupational health services in the industrial undertakings. These services cannot be established in the public sector and all other branches of our economic activities as stipulated in the above instrument.

At the moment, Kenya does not have sufficient manpower and resources to enable us to fully implement the various provisions as stipulated under this Convention if ratified. Our ratification and hence enforcement of this Convention, would be a very expensive affair both for the Government, employers and workers. As it stands now, our economic circumstances cannot absorb the expenses that will follow such ratification.

In view of the above, the Government does not intend to ratify this Convention for the time being.

#### Recommendation 171

#### CONCERNING OCCUPATIONAL HEALTH SERVICES

This recommendation is meant to complement Convention No. 161. It requires adopting member States, to formulate, implement and periodically review a coherent national policy on occupational health services which should include general principles governing their functions, organizations and operation.

As for now, the Government, within the constraints and limits of its resources, can only develop progressively, the occupational health services in the industrial undertakings.

While we will do all we can to be guided by the provisions of this recommendation, we will not, however, be able to comply fully with its overall terms at this stage. Moreover, the recommendation is in furtherance



of the requirements of the corresponding Convention No. 161 which the Government does not intend to ratify at present time.

In view of the above, the Government does not intend to adopt the recommendation.

#### Convention No. 162

### CONCERNING SAFETY IN THE USE OF ASBESTOS

The above instrument aims at providing protection of workers against the various risks that emanates from the use of asbestos. It provides for strict measures for preventing serious health hazards resulting from occupational exposure to asbestos dust. The text also envisages the prohibition of the use of crocidolite—a type of asbestos which is considered as particularly dangerous, and also of the spraying of all types of asbestos.

The Convention provides that the national laws of ratifying member States shall prescribe the technical measures of hazard prevention, and of authorization for the use of the asbestos or for certain work processes. It further stipulates that where necessary and in order to protect the health of workers, national laws of ratifying member States shall provide for either the replacement of asbestos by other materials or products wherever possible, or for the total or partial prohibition of the use of asbestos in certain work processes.

All ratifying member States are also expected to enact national laws and regulations prescribing the measures to be taken for the prevention and control of, and protection of workers against health hazards due to occupational exposure to asbestos.

Kenya does not have comprehensive legislation or regulations on safety in the use of asbestos. Such a legislation would be necessary in order to ensure full compliance with the various provisions as stipulated in this Convention.

We do not also have sufficient manpower to implement the various provisions as stipulated in the Convention if ratified. The ratification, and hence enforcement of this instrument would be a very expensive affair both for the Government, employers and workers. Again, as it stands, now, our economic circumstances cannot absorb the expenses that would follow any such ratification i.e. replacement of asbestos materials nation-wide, etc.

On the whole, and in view of the fact that there is no specific law on safety in the use of asbestos, the Government does not intend to ratify this Convention for the time being.

#### Recommendation 172

### CONCERNING SAFETY IN THE USE OF ASBESTOS

This recommendation is meant to complement Convention No. 162 concerning safety in the use of asbestos. Member States wishing to adopt this recommendation are expected to take the necessary measures for

preventing serious health hazards resulting from occupational exposure to asbestos dust, and for protecting workers from these hazards.

Kenya does not have specific laws which prescribe the technical measures of asbestos hazard prevention, and of adequate-work practices, and special rules/regulations and procedures, including authorization for the use of asbestos, or for certain work processes. We do not also have law which provides for either the disposal, and replacement of asbestos by other materials or products wherever possible, or for the total or partial prohibition of the use of asbestos in certain work processes.

While we will do all we can to be guided by the relevant provisions of this recommendation, we will not be able to comply fully with all its requirements at this stage. Moreover, the recommendation is in furtherance of the requirements of the corresponding Convention No. 162 which the Government does not intend to ratify for the reasons given.

In view of the above, the Government does not intend to adopt the recommendation.

#### Convention No. 163

### ON SEAFARERS' WELFARE AT SEA AND IN PORT

The above instruments were adopted by the International Labour Conference at its 74th Session.

The Convention is an improvement to the Seamen's Welfare in Ports Recommendation, 1936 and the Seafarers' Welfare Recommendation, 1970 while the recommendation is meant to supplement the Convention.

Recommendation No. 173 aims at supplementing Convention No. 164 concerning health protection and medical care for seafarers.

The recommendation also supplements Convention No. 164 and which the Government does not intend to ratify for the time being.

Not being a traditionally maritime country, welfare facilities and service exclusively for seafarers are not in existence in Kenya. The Mission to Seamen, a voluntary organization, only provides a limited range of the facilities stipulated in the recommendation.

On the whole, the instruments appear to be more appropriate for developed and well established maritime countries. In view of this fact, the Government does not intend to either ratify Convention No. 163.

#### Convention No. 164

### CONCERNING HEALTH PROTECTION AND MEDICAL CARE FOR SEAFARERS

The primary aim of this Convention is to ensure that ratifying countries adopt the necessary measures to provide for health protection and medical care for seafarers on board ship.

The Convention requires ratifying countries to—

- (a) make shipowners responsible for keeping ships in proper sanitary and hygienic conditions, through national laws or regulations;
- (b) ensure that measures providing for health protection and medical care for seafarers on board ship are adopted;
- (c) ensure that every ship covered by the Convention carries a well stocked medicine chest as well as medical equipment as prescribed by the competent authority;
- (d) ensure that every ship to which this Convention applies carries a ship's medical guide adopted by the competent authority;
- (e) the competent authority shall ensure by a pre-arranged system, that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available at any hour of the day or night.

The law and practice in Kenya as regards health protection and medical care for seafarers are not developed well enough to meet the high standards that the Convention has set. For this reason, the Government does not intend, for the time being, to ratify this Convention.

#### **Convention No. 165**

#### **CONCERNING SOCIAL SECURITY FOR SEAFARERS (REVISED) 1987**

This is a revised instrument which seeks to provide social security specifically for seafarers. It advocates for social security not less favourable than that enjoyed by shoreworkers. The instrument also provides for various aspects of non-contributory benefits for seafarers.

Ratifying member countries are bound to comply with the provisions of Article 9 or 11 with regard to at least three of the following branches of social security:

- (a) Medical care.
- (b) Sickness benefit.
- (c) Unemployment benefit.
- (d) Old age benefit.
- (e) Employment injury benefit.
- (f) Family benefit.
- (g) Maternity benefit.
- (h) Invalidity benefit.
- (i) Survivors' benefit.

Shipowners in ratifying countries would be required to provide to seafarers whose condition requires medical care while they are on board or who are left behind by reason of their condition in the territory of a State other than the competent member.

Ratification of this Convention would entail sufficient resources which are lacking at the moment. On the other hand, our Kenyan laws, i.e the National Social Security Fund Act, Cap. 258, effectively cover employees in all sectors including seafarers.

#### **Convention No. 166**

#### **CONCERNING THE REPATRIATION OF SEAFARERS (REVISED)**

This Convention provides for repatriation of seafarers in the event of, among other things, expiry of a specific voyage abroad, shipwreck, expiry of a seafarers contract of employment by way of termination of service or as a result of an Industrial Court Award or Collective Agreement, a ship being bound for a war zone to which a seafarer is unwilling to go, etc.

The Convention requires shipowners in ratifying countries to bear the cost of air transport for the seafarer(s) to be repatriated, cost of his subsistence, luggage and medication.

The existing legal provisions relevant to this Convention are contained in Section 169-185 of the Merchant Shipping Act, Cap. 389 under sub-heading "Relief and Repatriation of Distressed Seamen and Seamen Left Behind Abroad." The Act does not fully address the provision of the Convention and is currently being amended.

In view of the fact that the Act is currently undergoing amendments, the Government does not, for the time being, intend to ratify Convention No. 166.

#### **Convention No. 167**

#### **CONCERNING SAFETY AND HEALTH IN CONSTRUCTION**

The aim of this Convention is to ensure safety and health in construction. The Convention applies to all construction activities (i.e. building, civil engineering, erection and dismantling on site), from the preparation of the site to the completion of the project, and starts with a series of definitions. The latter, *inter alia*, clarify that the term "employer" means, on a construction site and as the context requires, the principal contractor, the contractor or the sub-contractor.

Ratifying countries shall ensure that all appropriate precautions are taken to ensure that all workplaces are safe and without risk of injury to health. To this end the principal technical requirements are defined, concerning safety and health in construction.

An inspection service and adequate penalty measures are prescribed under the Convention.

Our Directorate of Occupational Health and Safety Services have pointed out that at the moment, they do not have sufficient manpower to fully implement the various provisions as stipulated in the Convention if ratified by Kenya. In addition to the above, the infrastructure required to



enable us to implement the ratified Convention is still too small. The ratification of this Convention (and hence its enforcement), would also be a very difficult and expensive exercise both for the Government, employers, and workers. As it stands now, our economic circumstances cannot absorb the expenses that would follow the ratification of this instrument.

Also, the employers who would shoulder many of the provisions stipulated in the Convention, have along way to go before they are able to fully appreciate safety and health in construction.

Finally, and in view of the fact that health and safety laws (i.e. including the Factories Act) are not in total harmony with the various provisions of the above Convention, the Government does not intend to ratify this Convention for the time being.

#### **Convention No. 168**

### **CONCERNING EMPLOYMENT PROMOTION AND PROTECTION AGAINST UNEMPLOYMENT, 1988**

The general objectives of this Convention is to ensure that ratifying countries shall take appropriate steps to co-ordinate its system of protection against unemployment and its employment policy. To this end, it shall seek to ensure that its system of protection against unemployment, and in particular the methods of providing unemployment benefit, contribute to the promotion of full, productive and freely chosen employment, and are not such as to discourage employers from offering and workers from seeking productive employment.

After taking into account the various provisions of the Convention (and in particular the requirement for providing unemployment benefits), and taking into account the present stage of social and economic development of the country, and in particular the high growing level of unemployment and underemployment in the country, and the very limited financial resources needed to meet the contingencies to be covered, the Government does not intend to ratify this Convention.

#### **Convention No. 169**

### **CONCERNING INDIGENOUS AND TRIBAL PEOPLES**

This Convention aims at protecting the rights of indigenous and tribal peoples in independent countries and to guarantee respect for their integrity.

The Convention revises the Indigenous and Tribal Populations Convention, 1957 (107), in order to bring it into line with developments in international law and in the situation of indigenous and tribal peoples in all regions of the world.

Thus, it provides that governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee

respect for their integrity. To this end, it shall be ensured that they benefit, on an equal footing, from the rights and opportunities which are granted to other members of the population, with respect for the social and cultural identity of the peoples in question as well as their customs and institutions. These peoples shall enjoy, without discrimination, the full measures of human rights and fundamental freedoms.

#### **Convention No. 170**

### **CONCERNING SAFETY IN THE USE OF CHEMICALS AT WORK, 1990**

The aim of this Convention is to ensure that ratifying States shall formulate, implement, and periodically review a coherent policy on safety in the use of chemicals at work. The Convention also provides that the competent authority shall have the power, if justified on safety and health grounds, to prohibit or restrict the use of certain hazardous chemicals, or to require advance notification and authorization before such chemicals are used.

When ratified, the Convention shall apply to all branches of economic activity in which chemicals are used.

The Director of Occupational Health and Safety Services has clearly indicated that Kenya does not at the moment have sufficient trained manpower to fully implement the relevant provisions as stipulated in the Convention, particularly those requirements relating to classification systems, labelling and marking of chemicals, setting up of chemical safety data sheets, enforcing the responsibilities of suppliers; handling of responsibilities by employers such as those relating to identification, transfer of chemicals, exposure, operational control, disposal, information and training, etc.

In addition to this, the infrastructure required to enable us to implement the various provisions of the ratified Convention are still too small.

Also, the employers who are going to shoulder many of the stipulated provisions have a long way to go to fully appreciate safety in the use of chemicals at work.

In view of the above stated reasons, the Government does not intend to ratify this Convention for the time being.

#### **Convention No. 171**

### **CONCERNING NIGHT WORK, 1990**

The aim of this instrument is to ensure that the necessary minimum measures are taken for night workers, in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in fields of safety and maternity protection for all workers performing night work.

The Convention also stipulates that any group of workers at their request shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work—

- (a) before taking up an assignment as a night worker;
- (b) at regular intervals during such an assignment;
- (c) if they experience health problems during such an assignment which are not caused by factors other than the performance of night work.

The Convention further stipulates that appropriate measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work.

The Convention also provides for:

- (i) Compensation for night workers in the form of working time, pay or similar benefits shall recognize the nature of night work.
- (ii) Appropriate social services shall be provided for night workers, and where necessary, for workers performing night work.
- (iii) Before introducing work schedule requiring the services of night workers, the employer shall consult the workers' representatives concerned on the details of such schedules and the forms of organization of night work that are best adapted to the establishment and its personnel, as well as the occupational health measures and social services which are required. In establishment employing night workers this consultation shall take place regularly.

It should be noted that section 28(1) of the Employment Act Cap. 226, still prohibits night work for women between the hours of 6.30 p.m. and 6.30 a.m. in any industrial undertaking. Again, Article 6 of the Convention gives a leeway for workers to lay claim that they may not be suitable for night work. If we were to ratify this Convention, the present shift system in the country would have to be seriously affected.

In view of the above, the Government does not intend to ratify this Convention. Certain amendments are also needed in the present Employment Act before such ratification can be deemed feasible.

#### **Convention No. 172**

#### **CONCERNING WORKING CONDITIONS IN HOTELS, RESTAURANTS AND SIMILAR ESTABLISHMENTS, 1991**

The general objective of this Convention is to ensure that ratifying States shall adopt and apply a policy that is designed to improve the working conditions of workers who are employed in the hotels, restaurants, and similar establishments. The aim of such a policy shall be to ensure that the workers concerned are not excluded from the scope of any minimum

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

In Kenya today, the majority of the workers working within the Hotels, Restaurants and similar establishments have their terms and conditions of service determined through free collective bargaining. This would be a more favourable situation rather than having their terms and conditions of service incorporated in the law in order to comply with the requirements of the Convention. The requirements for such provisions are not only restrictive but are likely, if ratified, to have a negative effect on employment growth in this labour intensive industry which engages some 120,000 people in direct employment.

In view of the above, the Government does not intend to ratify this Convention for the time being.

#### **Convention No. 173**

#### **CONCERNING THE PROTECTION OF WORKERS' CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER, 1992**

The primary aim of this Convention is to provide for the protection of workers' claims either by means of privilege, or by providing for the protection of workers' claims by a guarantee institution.

With regard to protection of workers' claims by means of a privilege, the Convention provides that "in the event of an employer's insolvency, workers' claims arising out of their employment, shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share".

Protection of workers' claims by a guarantee institution would require that payment of such claims against their employer arising out of their employment, shall be guaranteed through a guarantee institution, i.e. when payment cannot be made by the employer because of insolvency.

In Kenya today, none of our laws provides for guarantee institutions which would make payment to workers when payment cannot be made by the employer because of insolvency as required under part III of the Convention.

In view of the above, the Government does not intend to ratify this Convention for the time being.

#### **Convention No. 174**

#### **CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS, 1993**

The aim of this Convention is the prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents.

A country intending to ratify this Convention shall formulate, implement, and periodically review a coherent national policy concerning the

protection of workers, the public and the environment against the risk of major accidents. Such a policy shall be implemented through preventive measures for major hazard installation, and, where practicable, shall promote the use of the best available safety technologies, etc.

A member ratifying this Convention may, exclude from the application of the Convention, installations or branches of economic activity for which equivalent protection is provided. The Convention further provides that where special problems of a substantial nature arise so that it is not immediately possible to implement all the preventive measures provided for in this Convention, a member may draw up plans, for the progressive implementation of the said measures within a fixed time-frame.

The Convention also applies to major hazard installations.

The Director of Occupational Health and Safety Services, has clearly indicated that Kenya does not at the moment have sufficiently trained manpower to fully implement the relevant provisions of this Convention, and particularly those requirements relating to responsibilities of employers such as identification of major hazard installation, their notifications to the competent authorities, arrangements at the level of the installation, preparation of the type of safety reports requiring accident reporting of major hazards, etc.

Also, responsibilities on the part of competent authorities will be most difficult to meet given the present low level of resources at the disposal of the relevant departments, coupled with a serious shortage of skilled manpower for the purposes. Again responsibilities such as those relating to "off site emergency preparedness", and determination for the siting of major hazard installation and their frequent inspections, will require a level of resource allocation which will be difficult to realize for the time being.

Again Kenya as a country only recently (i.e. 1991) formed the National Advisory Committee on Occupational Health and Safety through the amended Factories Act.

In view of the above stated reasons, the Government does not intend to ratify this Convention for the time being.

#### Recommendation 173

#### **CONCERNING SEAFARERS' WELFARE AT SEA AND IN PORT**

The recommendation requires member countries who adopt it to, among other things, take measures to ensure that adequate welfare facilities and services are provided to seafarers both in port and on shore, and in so doing, take into account the special needs of seafarers'. The instrument also recommends that in promoting the welfare of seafarers', members should co-operate with one another in consultations between each other's competent authorities, joint provision of facilities, organizing of international sports competitions and also seminars (on the subject of welfare) for seafarers'.

In view of our stage of development, therefore, coupled with the fact that the Government does not, for the time being, intend to ratify Convention No. 163 which is supplemented by this recommendation, the Government does not, for the time being intend to adopt Recommendation 173.

#### Recommendation 174

#### **CONCERNING THE REPATRIATION OF SEAFARERS**

The recommendation mainly provides for seafarers' in countries that have ratified Convention No. 166 (on Repatriation of Seafarers, 1987) to arrange for and meet their own costs of repatriation and recover them from the shipowner in the event of both the shipowner and the ratifying country failing to meet their obligations under the Convention.

In view of the comments given with regard to Convention No. 166, the Government does not intend, for the time being, to adopt the recommendation.

#### Recommendation 175

#### **CONCERNING SAFETY AND HEALTH IN CONSTRUCTION**

This recommendation supplements Convention No. 167. Member States wishing to adopt the instrument are expected, among others, to enact National Laws or regulations that will require employers and self-employed persons to provide safe and healthy workplace and also to ensure that construction work is planned, prepared and undertaken in such a way that—

- (a) risks are completely minimized;
- (b) excessive or unnecessary strenuous work positions and movements are avoided;
- (c) organization of work takes into account safety and health of workers;
- (d) materials and products used are suitable from a safety and health point of view;
- (e) the working methods employed protect workers against the harmful effects of chemical, physical and biological agents, etc.

At the moment, Kenya does not have sufficient resources and the required infrastructure to fully implement the various provisions of the recommendation. While the Government could do all it could with regard to the provisions of the recommendation, it would not be able to fully comply with its requirements at this stage.

Moreover, the recommendation is in furtherance of the requirements of the corresponding Convention No. 167 which the Government does not intend to ratify for the time being.

In view of the above, the Government does not intend to adopt Recommendation 175.

**Recommendation 176**

**CONCERNING EMPLOYMENT PROMOTION AND THE PROTECTION AGAINST UNEMPLOYMENT, 1988**

The aim of this recommendation is to ensure the promotion of full, productive, and freely chosen employment by all appropriate means, including through social security as a priority objective of national policy.

This recommendation also aims at complementing Convention No. 168 concerning employment promotion and protection against unemployment, and which Convention the Government has already indicated that it does not intend to ratify.

In view of the above stated reasons, the Government does not intend to adopt this recommendation.

**Recommendation 177**

**CONCERNING SAFETY IN THE USE OF CHEMICALS AT WORK, 1990**

The general aim of this recommendation is to complement Convention No. 170 which requires ratifying countries to formulate, implement, and periodically review, a coherent policy on safety in the use of chemicals at work.

Since the recommendation supplements Convention No. 170 which the Government has already indicated that it does not intend to ratify for the time being, we do not also intend to adopt this recommendation.

**Recommendation 178**

**CONCERNING NIGHT WORK, 1990**

The aim of this recommendation is to supplement Convention No. 171 concerning night work, and which the Government does not intend to ratify for the reasons as already stated.

In view of the above, the Government does not intend to adopt this recommendation for the time being.

**Recommendation 179**

**CONCERNING WORKING CONDITIONS IN HOTELS, RESTAURANTS, AND SIMILAR ESTABLISHMENTS, 1991**

The general objective of this Recommendation is to improve the working conditions of the workers concerned, in order to bring them closer to those prevailing in other sectors of the economy.

The recommendation also aims at complementing Convention No. 172 concerning working conditions in hotels, restaurants and similar establishment, and which the Government does not intend to ratify for the stated reasons.

In view of the above, the Government does not intend to adopt this recommendation for the time being.

**Recommendation 180**

**CONCERNING THE PROTECTION OF WORKERS' CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER, 1992**

The primary objective of this recommendation is to complement Convention No. 173 concerning the protection of workers' claims in the event of the insolvency of the employer.

Such protection could be either by means of a privilege or by a guarantee institution.

As indicated above, the recommendation aims at supplementing Convention No. 173 concerning the protection of workers' claims in the event of the insolvency of their employer, and which Convention the Government does not intend to ratify for the time being.

In view of the above, the Government does not intend to adopt this recommendation for the time being.

**Recommendation 181**

**CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS, 1993**

The primary objective of this recommendation is to promote the development of policies aimed at addressing the major accident risks, hazards and their consequences within the sectors and activities excluded from the scope of Convention No. 174.

This recommendation, therefore, aims at supplementing Convention No. 174 concerning the prevention of major industrial accidents, and which the Government does not intend to ratify for the time being.

In view of the above, the Government does not intend to adopt this recommendation for the time being.



**Convention concerning Occupational Safety and Health in Dock Work**<sup>1</sup>

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-fifth Session on 6 June 1979, and

Noting the terms of existing international labour Conventions and Recommendations which are relevant and, in particular, the Marking of Weight (Packages Transported by Vessels) Convention, 1929, the Guarding of Machinery Convention, 1963, and the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977, and

Having decided upon the adoption of certain proposals with regard to the revision of the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32), which is the fourth item on the agenda of the session, and

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

adopts this twenty-fifth day of June of the year one thousand nine hundred and seventy-nine, the following Convention, which may be cited as the Occupational Safety and Health (Dock Work) Convention, 1979:

PART I. SCOPE AND DEFINITIONS

*Article 1*

For the purpose of this Convention, the term "dock work" covers all and any part of the work of loading or unloading any ship as well as any work incidental thereto; the definition of such work shall be established by national law or practice. The organisations of employers and workers concerned shall be consulted on or otherwise participate in the establishment and revision of this definition.

*Article 2*

1. A Member may grant exemptions from or permit exceptions to the provisions of this Convention in respect of dock work at any place where the traffic is irregular and confined to small ships, as well as in respect of dock work in relation to fishing vessels or specified categories thereof, on condition that -

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<sup>1</sup> Date of coming into force: 5 December 1981.



- (a) safe working conditions are maintained; and
- (b) the competent authority, after consultation with the organisations of employers and workers concerned, is satisfied that it is reasonable in all the circumstances that there be such exemptions or exceptions.

2. Particular requirements of Part III of this Convention may be varied if the competent authority is satisfied, after consultation with the organisations of employers and workers concerned, that the variations provide corresponding advantages and that the over-all protection afforded is not inferior to that which would result from the full application of the provisions of this Convention.

3. Any exemptions or exceptions made under paragraph 1 of this Article and any significant variations made under paragraph 2 of this Article, as well as the reasons therefor, shall be indicated in the reports on the application of the Convention submitted in pursuance of article 22 of the Constitution of the International Labour Organisation.

#### Article 3

For the purpose of this Convention –

- (a) the term “worker” means any person engaged in dock work;
- (b) the term “competent person” means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to the competent authority;
- (c) the term “responsible person” means a person appointed by the employer, the master of the ship or the owner of the gear, as the case may be, to be responsible for the performance of a specific duty or duties and who has sufficient knowledge and experience and the requisite authority for the proper performance of the duty or duties;
- (d) the term “authorised person” means a person authorised by the employer, the master of the ship or a responsible person to undertake a specific task or tasks and possessing the necessary technical knowledge and experience;
- (e) the term “lifting appliance” covers all stationary or mobile cargo-handling appliances, including shore-based power-operated ramps, used on shore or on board ship for suspending, raising or lowering loads or moving them from one position to another while suspended or supported;
- (f) the term “loose gear” covers any gear by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load;
- (g) the term “access” includes egress;
- (h) the term “ship” covers any kind of ship, vessel, barge, lighter or hovercraft, excluding ships of war.

## PART II. GENERAL PROVISIONS

### Article 4

1. National laws or regulations shall prescribe that measures complying with Part III of this Convention be taken as regards dock work with a view to –

- (a) providing and maintaining workplaces, equipment and methods of work that are safe and without risk of injury to health;
- (b) providing and maintaining safe means of access to any workplace;
- (c) providing the information, training and supervision necessary to ensure the protection of workers against risks of accident or injury to health arising out of or in the course of their employment;
- (d) providing workers with any personal protective equipment and protective clothing and any life-saving appliances reasonably required where adequate protection against risks of accident or injury to health cannot be provided by other means;
- (e) providing and maintaining suitable and adequate first-aid and rescue facilities;
- (f) developing and establishing proper procedures to deal with any emergency situations which may arise.

2. The measures to be taken in pursuance of this Convention shall cover –

- (a) general requirements relating to the construction, equipping and maintenance of dock structures and other places at which dock work is carried out;
- (b) fire and explosion prevention and protection;
- (c) safe means of access to ships, holds, staging, equipment and lifting appliances;
- (d) transport of workers;
- (e) opening and closing of hatches, protection of hatchways and work in holds;
- (f) construction, maintenance and use of lifting and other cargo-handling appliances;
- (g) construction, maintenance and use of staging;
- (h) rigging and use of ship's derricks;
- (i) testing, examination, inspection and certification, as appropriate, of lifting appliances, of loose gear, including chains and ropes, and of slings and other lifting devices which form an integral part of the load;
- (j) handling of different types of cargo;
- (k) stacking and storage of goods;
- (l) dangerous substances and other hazards in the working environment;
- (m) personal protective equipment and protective clothing;

- (n) sanitary and washing facilities and welfare amenities;
- (o) medical supervision;
- (p) first-aid and rescue facilities;
- (q) safety and health organisation;
- (r) training of workers;
- (s) notification and investigation of occupational accidents and diseases.

3. The practical implementation of the requirements prescribed in pursuance of paragraph 1 of this Article shall be ensured or assisted by technical standards or codes of practice approved by the competent authority, or by other appropriate methods consistent with national practice and conditions.

#### Article 5

1. National laws or regulations shall make appropriate persons, whether employers, owners, masters or other persons, as the case may be, responsible for compliance with the measures referred to in Article 4, paragraph 1, of this Convention.

2. Whenever two or more employers undertake activities simultaneously at one workplace, they shall have the duty to collaborate in order to comply with the prescribed measures, without prejudice to the responsibility of each employer for the health and safety of his employees. In appropriate circumstances, the competent authority shall prescribe general procedures for this collaboration.

#### Article 6

1. There shall be arrangements under which workers—

- (a) are required neither to interfere without due cause with the operation of, nor to misuse, any safety device or appliance provided for their own protection or the protection of others;
- (b) take reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at work;
- (c) report forthwith to their immediate supervisor any situation which they have reason to believe could present a risk and which they cannot correct themselves, so that corrective measures can be taken.

2. Workers shall have a right at any workplace to participate in ensuring safe working to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they affect safety. In so far as appropriate under national law and practice, where safety and health committees have been formed in accordance with Article 37 of this Convention, this right shall be exercised through these committees.

#### Article 7

1. In giving effect to the provisions of this Convention by national laws or regulations or other appropriate methods consistent with national practice and conditions, the competent authority shall act in consultation with the organisations of employers and workers concerned.

2. Provision shall be made for close collaboration between employers and workers or their representatives in the application of the measures referred to in Article 4, paragraph 1, of this Convention.

### PART III. TECHNICAL MEASURES

#### Article 8

Any time that a workplace has become unsafe or there is a risk of injury to health, effective measures shall be taken (by fencing, flagging or other suitable means including, where necessary, cessation of work) to protect the workers until the place has been made safe again.

#### Article 9

1. All places where dock work is being carried out and any approaches thereto shall be suitably and adequately lighted.

2. Any obstacle liable to be dangerous to the movement of a lifting appliance, vehicle or person shall, if it cannot be removed for practical reasons, be suitably and conspicuously marked and, where necessary, adequately lighted.

#### Article 10

1. All surfaces used for vehicle traffic or for the stacking of goods or materials shall be suitable for the purpose and properly maintained.

2. Where goods or materials are stacked, stowed, unstacked or unstowed, the work shall be done in a safe and orderly manner having regard to the nature of the goods or materials and their packing.

#### Article 11

1. Passageways of adequate width shall be left to permit the safe use of vehicles and cargo-handling appliances.

2. Separate passageways for pedestrian use shall be provided where necessary and practicable; such passageways shall be of adequate width and, as far as is practicable, separated from passageways used by vehicles.

#### Article 12

Suitable and adequate means for fighting fire shall be provided and kept available for use where dock work is carried out.

*Article 13*

1. All dangerous parts of machinery shall be effectively guarded, unless they are in such a position or of such a construction as to be as safe as they would be if effectively guarded.

2. Effective measures shall be provided for promptly cutting off the power to any machinery in respect of which this is necessary, in an emergency.

3. When any cleaning, maintenance or repair work that would expose any person to danger has to be undertaken on machinery, the machinery shall be stopped before this work is begun and adequate measures shall be taken to ensure that the machinery cannot be restarted until the work has been completed: Provided that a responsible person may restart the machinery for the purpose of any testing or adjustment which cannot be carried out while the machinery is at rest.

4. Only an authorised person shall be permitted to—

(a) remove any guard where this is necessary for the purpose of the work being carried out;

(b) remove a safety device or make it inoperative for the purpose of cleaning, adjustment or repair.

5. If any guard is removed, adequate precautions shall be taken, and the guard shall be replaced as soon as practicable.

6. If any safety device is removed or made inoperative, the device shall be replaced or its operation restored as soon as practicable and measures shall be taken to ensure that the relevant equipment cannot be used or inadvertently started until the safety device has been replaced or its operation restored.

7. For the purpose of this Article, the term "machinery" includes any lifting appliance, mechanised hatch cover or power-driven equipment.

*Article 14*

All electrical equipment and installations shall be so constructed, installed, operated and maintained as to prevent danger and shall conform to such standards as have been recognised by the competent authority.

*Article 15*

When a ship is being loaded or unloaded alongside a quay or another ship, adequate and safe means of access to the ship, properly installed and secured, shall be provided and kept available.

*Article 16*

1. When workers have to be transported to or from a ship or other place by water, adequate measures shall be taken to ensure their safe embarking, transport and disembarking; the conditions to be complied with by the vessels used for this purpose shall be specified.

2. When workers have to be transported to or from a workplace on land, means of transport provided by the employer shall be safe.

*Article 17*

1. Access to a ship's hold or cargo deck shall be by means of—

(a) a fixed stairway or, where this is not practicable, a fixed ladder or cleats or cups of suitable dimensions, of adequate strength and proper construction; or

(b) by other means acceptable to the competent authority.

2. So far as is reasonably practicable, the means of access specified in this Article shall be separate from the hatchway opening.

3. Workers shall not use, or be required to use, any other means of access to a ship's hold or cargo deck than those specified in this Article.

*Article 18*

1. No hatch cover or beam shall be used unless it is of sound construction, of adequate strength for the use to which it is to be put and properly maintained.

2. Hatch covers handled with the aid of a lifting appliance shall be fitted with readily accessible and suitable attachments for securing the slings or other lifting gear.

3. Where hatch covers and beams are not interchangeable, they shall be kept plainly marked to indicate the hatch to which they belong and their position therein.

4. Only an authorised person (whenever practicable a member of the ship's crew) shall be permitted to open or close power-operated hatch covers; the hatch covers shall not be opened or closed while any person is liable to be injured by the operation of the covers.

5. The provisions of paragraph 4 of this Article shall apply, *mutatis mutandis*, to power-operated ship's equipment such as a door in the hull of a ship, a ramp, a retractable car deck or similar equipment.

*Article 19*

1. Adequate measures shall be taken to protect any opening in or on a deck where workers are required to work, through which opening workers or vehicles are liable to fall.

2. Every hatchway not fitted with a coaming of adequate height and strength shall be closed or its guard replaced when the hatchway is no longer in use, except during short interruptions of work, and a responsible person shall be charged with ensuring that these measures are carried out.

*Article 20*

1. All necessary measures shall be taken to ensure the safety of workers required to be in the hold or on a cargo deck of a ship when power vehicles operate in that hold or loading or unloading operations are taking place with the aid of power-operated appliances.

2. Hatch covers and beams shall not be removed or replaced while work is in progress in the hold under the hatchway. Before loading or unloading takes place, any hatch cover or beam that is not adequately secured against displacement shall be removed.

3. Adequate ventilation shall be provided in the hold or on a cargo deck by the circulation of fresh air to prevent risks of injury to health arising from the fumes emitted by internal combustion engines or from other sources.

4. Adequate arrangements, including safe means of escape, shall be made for the safety of persons when dry bulk cargo is being loaded or unloaded in any hold or tween deck or when a worker is required to work in a bin or hopper on board ship.

#### Article 21

Every lifting appliance, every item of loose gear and every sling or lifting device forming an integral part of a load shall be —

- (a) of good design and construction, of adequate strength for the purpose for which it is used, maintained in good repair and working order and, in the case of a lifting appliance in respect of which this is necessary, properly installed;
- (b) used in a safe and proper manner and, in particular, shall not be loaded beyond its safe working load or loads, except for testing purposes as specified and under the direction of a competent person.

#### Article 22

1. Every lifting appliance and every item of loose gear shall be tested in accordance with national laws or regulations by a competent person before being put into use for the first time and after any substantial alteration or repair to any part liable to affect its safety.

2. Lifting appliances forming part of a ship's equipment shall be retested at least once in every five years.

3. Shore-based lifting appliances shall be retested at such times as prescribed by the competent authority.

4. Upon the completion of every test of a lifting appliance or item of loose gear carried out in accordance with this Article, the appliance or gear shall be thoroughly examined and certified by the person carrying out the test.

#### Article 23

1. In addition to the requirements of Article 22, every lifting appliance and every item of loose gear shall be periodically thoroughly examined and certified by a competent person. Such examinations shall take place at least once in every 12 months.

2. For the purpose of paragraph 4 of Article 22 and of paragraph 1 of this Article, a thorough examination means a detailed visual examination by a competent person, supplemented if necessary by other suitable means or measures in

order to arrive at a reliable conclusion as to the safety of the appliance or item of loose gear examined.

#### Article 24

1. Every item of loose gear shall be inspected regularly before use. Expendable or disposable slings shall not be reused. In the case of pre-slung cargoes, the slings shall be inspected as frequently as is reasonably practicable.

2. For the purpose of paragraph 1 of this Article, an inspection means a visual inspection by a responsible person carried out to decide whether, so far as can be ascertained in such manner, the gear or sling is safe for continued use.

#### Article 25

1. Such duly authenticated records as will provide *prima facie* evidence of the safe condition of the lifting appliances and items of loose gear concerned shall be kept, on shore or on the ship as the case may be; they shall specify the safe working load and the dates and results of the tests, thorough examinations and inspections referred to in Articles 22, 23 and 24 of this Convention: Provided that in the case of inspections referred to in paragraph 1 of Article 24 of this Convention, a record need only be made where the inspection discloses a defect.

2. A register of the lifting appliances and items of loose gear shall be kept in a form prescribed by the competent authority, account being taken of the model recommended by the International Labour Office.

3. The register shall comprise certificates granted or recognised as valid by the competent authority, or certified true copies of the said certificates, in a form prescribed by the competent authority, account being taken of the models recommended by the International Labour Office in respect of the testing, thorough examination and inspection, as the case may be, of lifting appliances and items of loose gear.

#### Article 26

1. With a view to ensuring the mutual recognition of arrangements made by Members which have ratified this Convention for the testing, thorough examination, inspection and certification of lifting appliances and items of loose gear forming part of a ship's equipment and of the records relating thereto —

- (a) the competent authority of each Member which has ratified the Convention shall appoint or otherwise recognise competent persons or national or international organisations to carry out tests and or thorough examinations and related functions, under conditions that ensure that the continuance of appointment or recognition depends upon satisfactory performance;
- (b) Members which have ratified the Convention shall accept or recognise those appointed or otherwise recognised pursuant to subparagraph (a) of this paragraph, or shall enter into reciprocal arrangements with regard to such acceptance or recognition; in either case, acceptance or recognition shall be under conditions that make their continuance dependent upon satisfactory performance.



2. No lifting appliance, loose gear or other cargo-handling appliances shall be used if—

- (a) the competent authority is not satisfied by reference to a certificate of test or examination or to an authenticated record, as the case may be, that the necessary test, examination or inspection has been carried out in accordance with the provisions of this Convention; or
- (b) in the view of the competent authority, the appliance or gear is not safe for use.

3. Paragraph 2 of this Article shall not be so applied as to cause delay in loading or unloading a ship where equipment satisfactory to the competent authority is used.

#### Article 27

1. Every lifting appliance (other than a ship's derrick) having a single safe working load and every item of loose gear shall be clearly marked with its safe working load by stamping or, where this is impracticable, by other suitable means.

2. Every lifting appliance (other than a ship's derrick) having more than one safe working load shall be fitted with effective means of enabling the driver to determine the safe working load under each condition of use.

3. Every ship's derrick (other than a derrick crane) shall be clearly marked with the safe working loads applying when the derrick is used—

- (a) in single purchase;
- (b) with a lower cargo block;
- (c) in union purchase in all possible block positions.

#### Article 28

Every ship shall carry rigging plans and any other relevant information necessary to permit the safe rigging of its derricks and accessory gear.

#### Article 29

Pallets and similar devices for containing or supporting loads shall be of sound construction, of adequate strength and free from visible defects liable to affect their safe use.

#### Article 30

Loads shall not be raised or lowered unless slung or otherwise attached to the lifting appliance in a safe manner.

#### Article 31

1. Every freight container terminal shall be so laid out and operated as to ensure so far as is reasonably practicable the safety of the workers.

2. In the case of ships carrying containers, means shall be provided for ensuring the safety of workers lashing or unlashng the containers.

#### Article 32

1. Any dangerous cargo shall be packed, marked and labelled, handled, stored and stowed in accordance with the relevant requirements of international regulations applying to the transport of dangerous goods by water and those dealing specifically with the handling of dangerous goods in ports.

2. Dangerous substances shall not be handled, stored or stowed unless they are packed and marked and labelled in compliance with international regulations for the transport of such substances.

3. If receptacles or containers of dangerous substances are broken or damaged to a dangerous extent, dock work, other than that necessary to eliminate danger, shall be stopped in the area concerned and the workers removed to a safe place until the danger has been eliminated.

4. Adequate measures shall be taken to prevent exposure of workers to toxic or harmful substances or agents, or oxygen-deficient or flammable atmospheres.

5. Where workers are required to enter any confined space in which toxic or harmful substances are liable to be present or in which there is liable to be an oxygen deficiency, adequate measures shall be taken to prevent accidents or injury to health.

#### Article 33

Suitable precautions shall be taken to protect workers against the harmful effects of excessive noise at the workplace.

#### Article 34

1. Where adequate protection against risks of accident or injury to health cannot be ensured by other means, workers shall be provided with and shall be required to make proper use of such personal protective equipment and protective clothing as is reasonably required for the performance of their work.

2. Workers shall be required to take care of that personal protective equipment and protective clothing.

3. Personal protective equipment and protective clothing shall be properly maintained by the employer.



2. No lifting appliance, loose gear or other cargo-handling appliances shall be used if—

(a) the competent authority is not satisfied by reference to a certificate of test or examination or to an authenticated record, as the case may be, that the necessary test, examination or inspection has been carried out in accordance with the provisions of this Convention; or

(b) in the view of the competent authority, the appliance or gear is not safe for use.

3. Paragraph 2 of this Article shall not be so applied as to cause delay in loading or unloading a ship where equipment satisfactory to the competent authority is used.

#### Article 27

1. Every lifting appliance (other than a ship's derrick) having a single safe working load and every item of loose gear shall be clearly marked with its safe working load by stamping or, where this is impracticable, by other suitable means.

2. Every lifting appliance (other than a ship's derrick) having more than one safe working load shall be fitted with effective means of enabling the driver to determine the safe working load under each condition of use.

3. Every ship's derrick (other than a derrick crane) shall be clearly marked with the safe working loads applying when the derrick is used—

(a) in single purchase;

(b) with a lower cargo block;

(c) in union purchase in all possible block positions.

#### Article 28

Every ship shall carry rigging plans and any other relevant information necessary to permit the safe rigging of its derricks and accessory gear.

#### Article 29

Pallets and similar devices for containing or supporting loads shall be of sound construction, of adequate strength and free from visible defects liable to affect their safe use.

#### Article 30

Loads shall not be raised or lowered unless slung or otherwise attached to the lifting appliance in a safe manner.

#### Article 31

1. Every freight container terminal shall be so laid out and operated as to ensure so far as is reasonably practicable the safety of the workers.

2. In the case of ships carrying containers, means shall be provided for ensuring the safety of workers lashing or unlashng the containers.

#### Article 32

1. Any dangerous cargo shall be packed, marked and labelled, handled, stored and stowed in accordance with the relevant requirements of international regulations applying to the transport of dangerous goods by water and those dealing specifically with the handling of dangerous goods in ports.

2. Dangerous substances shall not be handled, stored or stowed unless they are packed and marked and labelled in compliance with international regulations for the transport of such substances.

3. If receptacles or containers of dangerous substances are broken or damaged to a dangerous extent, dock work, other than that necessary to eliminate danger, shall be stopped in the area concerned and the workers removed to a safe place until the danger has been eliminated.

4. Adequate measures shall be taken to prevent exposure of workers to toxic or harmful substances or agents, or oxygen-deficient or flammable atmospheres.

5. Where workers are required to enter any confined space in which toxic or harmful substances are liable to be present or in which there is liable to be an oxygen deficiency, adequate measures shall be taken to prevent accidents or injury to health.

#### Article 33

Suitable precautions shall be taken to protect workers against the harmful effects of excessive noise at the workplace.

#### Article 34

1. Where adequate protection against risks of accident or injury to health cannot be ensured by other means, workers shall be provided with and shall be required to make proper use of such personal protective equipment and protective clothing as is reasonably required for the performance of their work.

2. Workers shall be required to take care of that personal protective equipment and protective clothing.

3. Personal protective equipment and protective clothing shall be properly maintained by the employer.

*Article 35*

In case of accident, adequate facilities, including trained personnel, shall be readily available for the rescue of any person in danger, for the provision of first-aid and for the removal of injured persons in so far as is reasonably practicable without further endangering them.

*Article 36*

1. Each Member shall determine, by national laws or regulations or other appropriate methods consistent with national practice and conditions, and after consultation with the organisations of employers and workers concerned—

- (a) for which risks inherent in the work there is to be an initial medical examination or a periodical medical examination, or both;
- (b) with due regard to the nature and degree of the risks and the particular circumstances, the maximum intervals at which periodical medical examinations are to be carried out;
- (c) in the case of workers exposed to special occupational health hazards, the range of special investigations deemed necessary;
- (d) appropriate measures for the provision of occupational health services for workers.

2. All medical examinations and investigations carried out in pursuance of paragraph 1 of this Article shall be free of cost to the worker.

3. The records of the medical examinations and the investigations shall be confidential.

*Article 37*

1. Safety and health committees including employers' and workers' representatives shall be formed at every port where there is a significant number of workers. Such committees shall also be formed at other ports as necessary.

2. The establishment, composition and functions of such committees shall be determined by national laws or regulations or other appropriate methods consistent with national practice and conditions, after consultation with the organisations of employers and workers concerned, and in the light of local circumstances.

*Article 38*

1. No worker shall be employed in dock work unless he has been given adequate instruction or training as to the potential risks attaching to his work and the main precautions to be taken.

2. A lifting appliance or other cargo-handling appliance shall be operated only by a person who is at least 18 years of age and who possesses the necessary aptitudes and experience or a person under training who is properly supervised.

*Article 39*

To assist in the prevention of occupational accidents and diseases, measures shall be taken to ensure that they are reported to the competent authority and, where necessary, investigated.

*Article 40*

In accordance with national laws or regulations or national practice, a sufficient number of adequate and suitable sanitary and washing facilities shall be provided and properly maintained at each dock, wherever practicable within a reasonable distance of the workplace.

## PART IV. IMPLEMENTATION

*Article 41*

Each Member which ratifies this Convention shall—

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

*Article 42*

1. National laws or regulations shall prescribe the time-limits within which the provisions of this Convention shall apply in respect of—

- (a) the construction or equipping of a ship;
- (b) the construction or equipping of any shore-based lifting appliance or other cargo-handling appliance;
- (c) the construction of any item of loose gear.

2. The time-limits prescribed pursuant to paragraph 1 of this Article shall not exceed four years from the date of ratification of the Convention.

## PART V. FINAL PROVISIONS

*Article 43*

This Convention revises the Protection against Accidents (Dockers) Convention, 1929, and the Protection against Accidents (Dockers) Convention (Revised), 1932.

Recommendation 160

**RECOMMENDATION CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK**

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-fifth Session on 6 June 1979,  
and

Having decided upon the adoption of certain proposals with regard to the revision of the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32), 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 Occupational Safety and Health (Dock Work) Convention, 1979,

adopts this twenty-fifth day of June of the year one thousand nine hundred and seventy-nine the following Recommendation, which may be cited as the Occupational Safety and Health (Dock Work) Recommendation, 1979:

I. SCOPE AND DEFINITIONS

1. For the purpose of this Recommendation, the term "dock work" covers all and any part of the work of loading or unloading any ship as well as any work incidental thereto; the definition of such work should be established by national law or practice. The organisations of employers and workers concerned should be consulted on or otherwise participate in the establishment and revision of this definition.

2. For the purpose of this Recommendation—

- (a) the term "worker" means any person engaged in dock work;
- (b) the term "competent person" means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to the competent authority;
- (c) the term "responsible person" means a person appointed by the employer, the master of the ship or the owner of the gear, as the case may be, to be responsible for the performance of a specific duty or duties and who has sufficient knowledge and experience and the requisite authority for the proper performance of the duty or duties;
- (d) the term "authorised person" means a person authorised by the employer, the master of the ship or a responsible person to undertake a specific task or tasks and possessing the necessary technical knowledge and experience;
- (e) the term "lifting appliance" covers all stationary or mobile cargo-handling appliances, including shore-based power-operated ramps, used on shore or on board ship for suspending, raising or lowering loads or moving them from one position to another while suspended or supported;
- (f) the term "loose gear" covers any gear by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load;

21. Loads secured together by means of bailing wires or straps should not be raised or lowered by means of hooks or other devices inserted in the wires or straps unless the wires or straps are of adequate strength.

22. Every reasonable measure should be taken to minimise risks of accident when work has to be carried out on top of freight containers.

23. (1) Dangerous substances should only be handled, stored or stowed under the supervision of a responsible person.

(2) When dangerous substances are to be handled, stored or stowed, the workers concerned should be given adequate information as to the special precautions to be observed, including action to be taken in the event of a spillage or accidental escape from containment.

24. First-aid personnel should be proficient in the use of appropriate resuscitation techniques and rescue work.

25. Lifting appliances, where necessary and reasonably practicable, should be fitted with a means of emergency escape from the driver's cabin. There should be arrangements for the removal of an injured or ill driver without further endangering him.

26. (1) The results of the medical examinations and investigations referred to in Article 36 of the Occupational Safety and Health (Dock Work) Convention, 1979, should be communicated to the worker concerned.

(2) The employer should be informed whether the worker is fit for the work to be carried out and whether he may constitute a risk to other persons, on the condition that, subject to Article 39 of the Convention, the confidential character of the information is respected.

27. The facilities provided in pursuance of Article 40 of the Occupational Safety and Health (Dock Work) Convention, 1979, should, so far as is reasonably practicable, include changing rooms.

## Convention No. 153

### Convention concerning Hours of Work and Rest Periods in Road Transport <sup>1</sup>

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-fifth Session on 6 June 1979, and

Having decided upon the adoption of certain proposals with regard to hours of work and rest periods in road transport, 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-nine, the following Convention, which may be cited as the Hours of Work and Rest Periods (Road Transport) Convention, 1979:

#### Article 1

1. This Convention applies to wage-earning drivers working, whether for undertakings engaged in transport for third parties or for undertakings transporting goods or passengers for own account, on motor vehicles engaged professionally in the internal or international transport by road of goods or passengers.

2. Except as otherwise provided herein, this Convention further applies to owners of motor vehicles engaged professionally in road transport and non-wage-earning members of their families, when they are working as drivers.

#### Article 2

1. The competent authority or body in each country may exclude from the application of the provisions of this Convention, or of certain of them, persons who drive vehicles engaged in –

- (a) urban transport or certain types of urban transport, by reference to the particular technical operating conditions involved and to local conditions;
- (b) transport by agricultural or forestry undertakings in so far as such transport is carried out by means of tractors or other vehicles assigned to local agricultural or forestry activities and is used exclusively for the work of such undertakings;

<sup>1</sup> Date of coming into force: 10 February 1983.



- (c) transport of sick and injured persons, transport for rescue or salvage work and transport for fire-fighting services;
- (d) transport for the purpose of national defence and police services and, in so far as it is not in competition with that effected by undertakings engaged in transport for third parties, transport for the purpose of other public authority essential services;
- (e) transport by taxi; or
- (f) transport which, by reason of the type of vehicle used, the passenger or goods capacity of the vehicles, their limited routes or their maximum authorised speed, can be considered as not requiring special regulations concerning driving time and rest periods.

2. The competent authority or body in each country shall lay down adequate standards concerning driving time and rest periods of drivers excluded from the application of the provisions of this Convention, or of certain of them, pursuant to the provisions of paragraph 1 of this Article.

#### Article 3

The representative organisations of employers and workers concerned shall be consulted by the competent authority or body in each country before decisions are taken on any matters covered by the provisions of this Convention.

#### Article 4

1. For the purpose of this Convention the term "hours of work" means the time spent by wage-earning drivers on—

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

2. Periods of mere attendance or stand-by, either on the vehicle or at the workplace and during which the drivers are not free to dispose of their time as they please, may be regarded as hours of work to an extent to be prescribed in each country by the competent authority or body, by collective agreements or by any other means consistent with national practice.

#### Article 5

1. No driver shall be allowed to drive continuously for more than four hours without a break.

2. The competent authority or body in each country, taking into account particular national conditions, may authorise the period referred to in paragraph 1 of this Article to be exceeded by not more than one hour.

3. The length of the break referred to in this Article and, as appropriate, the way in which the break may be split shall be determined by the competent authority or body in each country.

4. The competent authority or body in each country may specify cases in which the provisions of this Article are inapplicable because drivers have suffi-

cient breaks as a result of stops provided for in the timetable or as a result of the intermittent nature of the work.

#### Article 6

1. The maximum total driving time, including overtime, shall exceed neither nine hours per day nor 48 hours per week.

2. The total driving times referred to in paragraph 1 of this Article may be calculated as an average over a number of days or weeks to be determined by the competent authority or body in each country.

3. The total driving times referred to in paragraph 1 of this Article shall be reduced in the case of transport activities carried out in particularly difficult conditions. The competent authority or body in each country shall define these activities and determine the total driving times to be applied in respect of the drivers concerned.

#### Article 7

1. Every wage-earning driver shall be entitled to a break after a continuous period of five hours of work as defined in Article 4, paragraph 1, of this Convention.

2. The length of the break referred to in paragraph 1 of this Article and, as appropriate, the way in which the break may be split shall be determined by the competent authority or body in each country.

#### Article 8

1. The daily rest of drivers shall be at least ten consecutive hours during any 24-hour period starting from the beginning of the working day.

2. The daily rest may be calculated as an average over periods to be determined by the competent authority or body in each country; Provided that the daily rest shall in no case be less than eight hours and shall not be reduced to eight hours more than twice a week.

3. The competent authority or body in each country may provide for daily rest periods of different duration according to whether passenger or goods transport is involved and to whether the rest is taken at home or elsewhere, on condition that the provisions of paragraphs 1 and 2 of this Article concerning the minimum number of hours are observed.

4. The competent authority or body in each country may provide for exceptions to the provisions of paragraphs 1 and 2 of this Article as regards the duration of the daily rest periods and the manner of taking such rest periods in the cases of vehicles having a crew of two drivers and of vehicles using a ferryboat or a train.

5. During the daily rest the driver shall not be required to remain in or near the vehicle if he has taken the necessary precautions to ensure the safety of the vehicle and its load.



*Article 9*

1. The competent authority or body in each country may permit as temporary exceptions, but only in so far as may be necessary for the performance of indispensable work, extensions of the driving time, extensions of the continuous working time, and reductions in the duration of the daily rest periods provided for in Articles 5, 6, 7 and 8 of this Convention –

- (a) in case of accident, breakdown, unforeseen delay, dislocation of service or interruption of traffic;
- (b) in case of *force majeure*; and
- (c) in case of urgent and exceptional necessity for ensuring the work of services of public utility.

2. When national or local conditions in which road transport operates do not lend themselves to the strict observance of Articles 5, 6, 7 or 8 of this Convention, the competent authority or body in each country may also authorise extensions of the driving time, extensions of the continuous working time and reductions in the duration of the daily rest periods provided for therein and authorise exceptions as regards the application of Articles 5, 6 or 8 to the drivers covered by Article 1, paragraph 2, of this Convention. In such case, the Member concerned shall, by a declaration appended to its ratification, describe these national or local conditions as well as the extensions, reductions or exceptions permitted pursuant to this paragraph. Any such Member shall indicate in its reports under article 22 of the Constitution of the International Labour Organisation any progress which may have been made with a view towards stricter or wider application of Articles 5, 6, 7 and 8 of this Convention, and may at any time cancel the declaration by a subsequent declaration.

*Article 10*

1. The competent authority or body in each country shall –

- (a) provide for an individual control book and prescribe the conditions of its issue, its contents and the manner in which it shall be kept by the drivers; and
- (b) lay down a procedure for notification of the hours worked in accordance with Article 9, paragraph 1, of this Convention and the circumstances justifying them.

2. Each employer shall –

- (a) keep a record, in a form approved by the competent authority or body in each country, indicating the hours of work and of rest of every driver employed by him; and
- (b) place this record at the disposal of the supervisory authorities in a manner determined by the competent authority or body in each country.

3. The traditional means of supervision referred to in paragraphs 1 and 2 of this Article shall, if this proves to be necessary for certain categories of transport, be replaced or supplemented as far as possible by recourse to modern

methods, as for instance tachographs, according to rules to be established by the competent authority or body in each country.

*Article 11*

The competent authority or body in each country shall make provision for –

- (a) an adequate inspection system, with verification carried out in the undertaking and on the roads; and
- (b) appropriate penalties in the event of breaches of the requirements of this Convention.

*Article 12*

The provisions of this Convention shall, except in so far as they are otherwise made effective by means of collective agreements or arbitration awards or in such other manner as may be consistent with national practice, be given effect by laws or regulations.

*Article 13*

This Convention revises the Hours of Work and Rest Periods (Road Transport) Convention, 1939.

\* \* \*

*Articles 14-21: Standard final provisions.<sup>2</sup>*

Convention concerning the Promotion of Collective Bargaining<sup>1</sup>

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

Reaffirming the provision of the Declaration of Philadelphia recognising "the solemn obligation of the International Labour Organisation 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 Organise Convention, 1948, the Right to Organise 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 Organise 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.
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' organisations, on the one hand, and one or more workers' organisations, 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 organisations and a workers' organisation or workers' organisations.

## Article 3

1. Where national law or practice recognises 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' organisations 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' organisations 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' organisations.

*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.

## PART IV. FINAL PROVISIONS

*Article 9*

This Convention does not revise any existing Convention or Recommendation.

\* \* \*

*Articles 10-17: Standard final provisions.<sup>2</sup>*

**Recommendation concerning the Promotion of Collective Bargaining**

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. METHODS 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.



Recommendation 164

**RECOMMENDATION CONCERNING OCCUPATIONAL SAFETY  
AND HEALTH AND THE WORKING ENVIRONMENT**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International  
Labour Office, and having met in its Sixty-seventh Session on 3 June 1981,  
and

Having decided upon the adoption of certain proposals with regard to safety  
and health and the working environment, which is the sixth item on the  
agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation  
supplementing the Occupational Safety and Health Convention, 1981,  
adopts this twenty-second day of June of the year one thousand nine hundred and  
eighty-one the following Recommendation, which may be cited as the Occupa-  
tional Safety and Health Recommendation, 1981:

I. SCOPE AND DEFINITIONS

1. (1) To the greatest extent possible, the provisions of the Occupational  
Safety and Health Convention, 1981 (hereinafter referred to as "the Conven-  
tion") and of this Recommendation should be applied to all branches of economic  
activity and to all categories of workers.

(2) Provision should be made for such measures as may be necessary and  
practicable to give self-employed persons protection analogous to that provided for  
in the Convention and in this Recommendation.

2. For the purpose of this Recommendation—

- (a) the term "branches of economic activity" covers all branches in which  
workers are employed, including the public service;
- (b) the term "workers" covers all employed persons, including public employees;
- (c) the term "workplace" covers all places where workers need to be or to go by  
reason of their work and which are under the direct or indirect control of the  
employer;
- (d) the term "regulations" covers all provisions given force of law by the  
competent authority or authorities;
- (e) the term "health", in relation to work, indicates not merely the absence of  
disease or infirmity; it also includes the physical and mental elements affecting  
health which are directly related to safety and hygiene at work.

II. TECHNICAL FIELDS OF ACTION

3. As appropriate for different branches of economic activity and different  
types of work and taking into account the principle of giving priority to eliminating  
hazards at their source, measures should be taken in pursuance of the policy  
referred to in Article 4 of the Convention, in particular in the following fields:

- (a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;
- (b) lighting, ventilation, order and cleanliness of workplaces;
- (c) temperature, humidity and movement of air in the workplace;
- (d) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their approval and transfer;
- (e) prevention of harmful physical or mental stress due to conditions of work;
- (f) handling, stacking and storage of loads and materials, manually or mechanically;
- (g) use of electricity;
- (h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues, and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
- (i) radiation protection;
- (j) prevention and control of, and protection against, occupational hazards due to noise and vibration;
- (k) control of the atmosphere and other ambient factors of workplaces;
- (l) prevention and control of hazards due to high and low barometric pressures;
- (m) prevention of fires and explosions and measures to be taken in case of fire or explosion;
- (n) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (o) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water, and any other welfare facilities connected with occupational safety and health;
- (p) first-aid treatment;
- (q) establishment of emergency plans;
- (r) supervision of the health of workers.

### III. ACTION AT THE NATIONAL LEVEL

4. With a view to giving effect to the policy referred to in Article 4 of the Convention, and taking account of the technical fields of action listed in Paragraph 3 of this Recommendation, the competent authority or authorities in each country should—

- (a) issue or approve regulations, codes of practice or other suitable provisions on occupational safety and health and the working environment, account being taken of the links existing between safety and health, on the one hand, and hours of work and rest breaks, on the other;
- (b) from time to time review legislative enactments concerning occupational safety and health and the working environment, and provisions issued or approved in pursuance of clause (a) of this Paragraph, in the light of experience and advances in science and technology;
- (c) undertake or promote studies and research to identify hazards and find means of overcoming them;

- (d) provide information and advice, in an appropriate manner, to employers and workers and promote or facilitate co-operation between them and their organisations, with a view to eliminating hazards or reducing them as far as practicable; where appropriate, a special training programme for migrant workers in their mother tongue should be provided;
- (e) provide specific measures to prevent catastrophes, and to co-ordinate and make coherent the actions to be taken at different levels, particularly in industrial zones where undertakings with high potential risks for workers and the surrounding population are situated;
- (f) secure good liaison with the International Occupational Safety and Health Hazard Alert System set up within the framework of the International Labour Organisation;
- (g) provide appropriate measures for handicapped workers.

5. The system of inspection provided for in paragraph 1 of Article 9 of the Convention should be guided by the provisions of the Labour Inspection Convention, 1947, and the Labour Inspection (Agriculture) Convention, 1969, without prejudice to the obligations thereunder of Members which have ratified these instruments.

6. As appropriate, the competent authority or authorities should, in consultation with the representative organisations of employers and workers concerned, promote measures in the field of conditions of work consistent with the policy referred to in Article 4 of the Convention.

7. The main purposes of the arrangements referred to in Article 15 of the Convention should be to—

- (a) implement the requirements of Articles 4 and 7 of the Convention;
- (b) co-ordinate the exercise of the functions assigned to the competent authority or authorities in pursuance of Article 11 of the Convention and Paragraph 4 of this Recommendation;
- (c) co-ordinate activities in the field of occupational safety and health and the working environment which are exercised nationally, regionally or locally, by public authorities, by employers and their organisations, by workers' organisations and representatives, and by other persons or bodies concerned;
- (d) promote exchanges of views, information and experience at the national level, at the level of an industry or that of a branch of economic activity.

8. There should be close co-operation between public authorities and representative employers' and workers' organisations, as well as other bodies concerned in measures for the formulation and application of the policy referred to in Article 4 of the Convention.

9. The review referred to in Article 7 of the Convention should cover in particular the situation of the most vulnerable workers, for example, the handicapped.

### IV. ACTION AT THE LEVEL OF THE UNDERTAKING

10. The obligations placed upon employers with a view to achieving the objective set forth in Article 16 of the Convention might include, as appropriate for different branches of economic activity and different types of work, the following:

- (a) to provide and maintain workplaces, machinery and equipment, and use work methods, which are as safe and without risk to health as is reasonably practicable;
- (b) to give necessary instructions and training, taking account of the functions and capacities of different categories of workers;
- (c) to provide adequate supervision of work, of work practices and of application and use of occupational safety and health measures;
- (d) to institute organisational arrangements regarding occupational safety and health and the working environment adapted to the size of the undertaking and the nature of its activities;
- (e) to provide, without any cost to the worker, adequate personal protective clothing and equipment which are reasonably necessary when hazards cannot be otherwise prevented or controlled;
- (f) to ensure that work organisation, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health;
- (g) to take all reasonably practicable measures with a view to eliminating excessive physical and mental fatigue;
- (h) to undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with the foregoing clauses.

11. Whenever two or more undertakings engage in activities simultaneously at one workplace, they should collaborate in applying the provisions regarding occupational safety and health and the working environment, without prejudice to the responsibility of each undertaking for the health and safety of its employees. In appropriate cases, the competent authority or authorities should prescribe general procedures for this collaboration.

12. (1) The measures taken to facilitate the co-operation referred to in Article 20 of the Convention should include, where appropriate and necessary, the appointment, in accordance with national practice, of workers' safety delegates, of workers' safety and health committees, and/or of joint safety and health committees; in joint safety and health committees workers should have at least equal representation with employers' representatives.

(2) Workers' safety delegates, workers' safety and health committees, and joint safety and health committees or, as appropriate, other workers' representatives should—

- (a) be given adequate information on safety and health matters, enabled to examine factors affecting safety and health, and encouraged to propose measures on the subject;
- (b) be consulted when major new safety and health measures are envisaged and before they are carried out, and seek to obtain the support of the workers for such measures;
- (c) be consulted in planning alterations of work processes, work content or organisation of work, which may have safety or health implications for the workers;
- (d) be given protection from dismissal and other measures prejudicial to them while exercising their functions in the field of occupational safety and health as workers' representatives or as members of safety and health committees;
- (e) be able to contribute to the decision-making process at the level of the undertaking regarding matters of safety and health;

- (f) have access to all parts of the workplace and be able to communicate with the workers on safety and health matters during working hours at the workplace;
- (g) be free to contact labour inspectors;
- (h) be able to contribute to negotiations in the undertaking on occupational safety and health matters;
- (i) have reasonable time during paid working hours to exercise their safety and health functions and to receive training related to these functions;
- (j) have recourse to specialists to advise on particular safety and health problems.

13. As necessary in regard to the activities of the undertaking and practicable in regard to its size, provision should be made for—

- (a) the availability of an occupational health service and a safety service, within the undertaking, jointly with other undertakings, or under arrangements with an outside body;
- (b) recourse to specialists to advise on particular occupational safety or health problems or supervise the application of measures to meet them.

14. Employers should, where the nature of the operations in their undertakings warrants it, be required to set out in writing their policy and arrangements in the field of occupational safety and health, and the various responsibilities exercised under these arrangements, and to bring this information to the notice of every worker, in a language or medium the worker readily understands.

15. (1) Employers should be required to verify the implementation of applicable standards on occupational safety and health regularly, for instance by environmental monitoring, and to undertake systematic safety audits from time to time.

(2) Employers should be required to keep such records relevant to occupational safety and health and the working environment as are considered necessary by the competent authority or authorities; these might include records of all notifiable occupational accidents and injuries to health which arise in the course of or in connection with work, records of authorisations and exemptions under laws or regulations in the field and any conditions to which they may be subject, certificates relating to supervision of the health of workers in the undertaking, and data concerning exposure to specified substances and agents.

16. The arrangements provided for in Article 19 of the Convention should aim at ensuring that workers—

- (a) take reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at work;
- (b) comply with instructions given for their own safety and health and those of others and with safety and health procedures;
- (c) use safety devices and protective equipment correctly and do not render them inoperative;
- (d) report forthwith to their immediate supervisor any situation which they have reason to believe could present a hazard and which they cannot themselves correct;
- (e) report any accident or injury to health which arises in the course of or in connection with work.

17. No measures prejudicial to a worker should be taken by reference to the fact that, in good faith, he complained of what he considered to be a breach of

statutory requirements or a serious inadequacy in the measures taken by the employer in respect of occupational safety and health and the working environment.

V. RELATIONS TO EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

18. This Recommendation does not revise any international labour Recommendation.

19. (1) In the development and application of the policy referred to in Article 4 of the Convention and without prejudice to their obligations under Conventions they have ratified, Members should refer to the international labour Conventions and Recommendations listed in the Appendix.

(2) The Appendix may be modified by the International Labour Conference, by a two-thirds majority, in connection with the future adoption or revision of any Convention or Recommendation in the field of safety and health and the working environment.

APPENDIX

LIST OF INSTRUMENTS CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE SINCE 1919

Year	Convention	Recommendation
1921	13. White Lead (Painting)	
1929	27. Marking of Weight (Packages Transported by Vessels)	
1937	62. Safety Provisions (Building)	53. Safety Provisions (Building)
1946	73. Medical Examinations (Seafarers)	79. Medical Examination of Young Persons
	77. Medical Examination of Young Persons (Industry)	
	78. Medical Examination of Young Persons (Non-industrial Occupations)	
1947	81. Labour Inspection	81. Labour Inspection 82. Labour Inspection (Mining and Transport)
1949	92. Accommodation of Crews (Revised)	
1953		97. Protection of Workers' Health
1958		105. Ships' Medicine Chests 106. Medical Advice at Sea
1959	113. Medical Examination (Fishermen)	112. Occupational Health Services
1960	115. Radiation Protection	114. Radiation Protection
1963	119. Guarding of Machinery	118. Guarding of Machinery
1964	120. Hygiene (Commerce and Offices) 121. Employment Injury Benefits	120. Hygiene (Commerce and Offices) 121. Employment Injury Benefits
1965	124. Medical Examination of Young Persons (Underground Work)	
1967	127. Maximum Weight	128. Maximum Weight
1969	129. Labour Inspection (Agriculture)	133. Labour Inspection (Agriculture)
1970	133. Accommodation of Crews (Supplementary Provisions)	140. Crew Accommodation (Air Conditioning) 141. Crew Accommodation (Noise Control)
	134. Prevention of Accidents (Seafarers)	142. Prevention of Accidents (Seafarers)
1971	136. Benzene	144. Benzene
1974	139. Occupational Cancer	147. Occupational Cancer
1977	148. Working Environment (Air Pollution, Noise and Vibration)	156. Working Environment (Air Pollution, Noise and Vibration)
1979	152. Occupational Safety and Health (Dock Work)	160. Occupational Safety and Health (Dock Work)



Convention 160

**CONVENTION CONCERNING LABOUR STATISTICS**

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

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

Considering that these proposals should take the form of an international  
Convention,  
adopts this twenty-fifth day of June of the year one thousand nine hundred and  
eighty-five the following Convention, which may be cited as the Labour Statistics  
Convention, 1985:

I. GENERAL PROVISIONS

*Article 1*

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

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

*Article 2*

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

*Article 3*

In designing or revising the concepts, definitions and methodology used in the  
collection, compilation and publication of the statistics required under this

Convention, the representative organisations of employers and workers, where they exist, shall be consulted with a view to taking into account their needs and to ensuring their co-operation.

#### Article 4

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

#### Article 5

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

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

#### Article 6

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

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

### II. BASIC LABOUR STATISTICS

#### Article 7

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

#### Article 8

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

#### Article 9

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

2. Where appropriate, statistics of time rates of wages and normal hours of work shall be compiled covering important occupations or groups of occupations in

important branches of economic activity, and in such a way as to be representative of the country as a whole.

#### Article 10

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

#### Article 11

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

#### Article 12

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

#### Article 13

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

#### Article 14

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

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

#### Article 15

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

### III. ACCEPTANCE OF OBLIGATIONS

#### Article 16

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

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

3. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office that it accepts the

obligations of the Convention in respect of one or more of the Articles of Part II which were not already specified in its ratification. These notifications shall have the force of ratification as from the date of their communication.

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

#### *Article 17*

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

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

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

#### *Article 18*

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

### IV. FINAL PROVISIONS

#### *Article 19*

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

#### *Article 20*

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

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

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

#### *Article 21*

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

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

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

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

#### *Article 22*

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

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

#### *Article 23*

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



Article 24

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

Article 25

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

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

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

Article 26

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

INTERNATIONAL LABOUR CONFERENCE

Recommendation 170

RECOMMENDATION CONCERNING LABOUR STATISTICS

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

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

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

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Statistics Convention, 1985, adopts this twenty-fifth day of June of the year one thousand nine hundred and eighty-five the following Recommendation, which may be cited as the Labour Statistics Recommendation, 1985:

I. BASIC LABOUR STATISTICS

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

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

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

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

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

*Statistics of Wages and Hours of Work*

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

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



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

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

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

(2) These statistics should provide –

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

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

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

#### *Consumer Price Indices*

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

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

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

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

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

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

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

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

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

#### *Statistics of Occupational Injuries and Occupational Diseases*

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

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

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

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

#### *Statistics of Industrial Disputes*

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

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

#### *Statistics of Productivity*

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

## II. STATISTICAL INFRASTRUCTURE

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

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

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

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

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

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

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

Convention 161

**CONVENTION CONCERNING OCCUPATIONAL HEALTH SERVICES**

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

Noting that the protection of the worker against sickness, disease and injury arising out of his employment is one of the tasks assigned to the International Labour Organisation under its Constitution,

Noting the relevant international labour Conventions and Recommendations, and in particular the Protection of Workers' Health Recommendation, 1953, the Occupational Health Services Recommendation, 1959, the Workers' Representatives Convention, 1971, and the Occupational Safety and Health Convention and Recommendation, 1981, which establish the principles of national policy and action at the national level,

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

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

Adopts this twenty-sixth day of June of the year one thousand nine hundred and eighty-five the following Convention, which may be cited as the Occupational Health Services Convention, 1985:

PART I. PRINCIPLES OF NATIONAL POLICY

*Article 1*

For the purpose of this Convention—

- (a) the term "occupational health services" means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on—
  - (i) the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work;
  - (ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health;
- (b) the term "workers' representatives in the undertaking" means persons who are recognised as such under national law or practice.

*Article 2*

In the light of national conditions and practice and in consultation with the most representative organisations of employers and workers, where they exist, each Member shall formulate, implement and periodically review a coherent national policy on occupational health services.

#### Article 3

1. Each Member undertakes to develop progressively occupational health services for all workers, including those in the public sector and the members of production co-operatives, in all branches of economic activity and all undertakings. The provision made should be adequate and appropriate to the specific risks of the undertakings.

2. If occupational health services cannot be immediately established for all undertakings, each Member concerned shall draw up plans for the establishment of such services in consultation with the most representative organisations of employers and workers, where they exist.

3. Each Member concerned shall indicate, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, the plans drawn up pursuant to paragraph 2 of this Article, and indicate in subsequent reports any progress in their application.

#### Article 4

The competent authority shall consult the most representative organisations of employers and workers, where they exist, on the measures to be taken to give effect to the provisions of this Convention.

### PART II. FUNCTIONS

#### Article 5

Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, and with due regard to the necessity for the workers to participate in matters of occupational health and safety, occupational health services shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking:

- (a) identification and assessment of the risks from health hazards in the workplace;
- (b) surveillance of the factors in the working environment and working practices which may affect workers' health, including sanitary installations, canteens and housing where these facilities are provided by the employer;
- (c) advice on planning and organisation of work, including the design of workplaces, on the choice, maintenance and condition of machinery and other equipment and on substances used in work;
- (d) participation in the development of programmes for the improvement of working practices as well as testing and evaluation of health aspects of new equipment;
- (e) advice on occupational health, safety and hygiene and on ergonomics and individual and collective protective equipment;
- (f) surveillance of workers' health in relation to work;
- (g) promoting the adaptation of work to the worker;
- (h) contribution to measures of vocational rehabilitation;
- (i) collaboration in providing information, training and education in the fields of occupational health and hygiene and ergonomics;
- (j) organising of first aid and emergency treatment;
- (k) participation in analysis of occupational accidents and occupational diseases.

### PART III. ORGANISATION

#### Article 6

Provision shall be made for the establishment of occupational health services—

- (a) by laws or regulations; or
- (b) by collective agreements or as otherwise agreed upon by the employers and workers concerned; or
- (c) in any other manner approved by the competent authority after consultation with the representative organisations of employers and workers concerned.

#### Article 7

1. Occupational health services may be organised as a service for a single undertaking or as a service common to a number of undertakings, as appropriate.

2. In accordance with national conditions and practice, occupational health services may be organised by—

- (a) the undertakings or groups of undertakings concerned;
- (b) public authorities or official services;
- (c) social security institutions;
- (d) any other bodies authorised by the competent authority;
- (e) a combination of any of the above.

#### Article 8

The employer, the workers and their representatives, where they exist, shall co-operate and participate in the implementation of the organisational and other measures relating to occupational health services on an equitable basis.

### PART IV. CONDITIONS OF OPERATION

#### Article 9

1. In accordance with national law and practice, occupational health services should be multidisciplinary. The composition of the personnel shall be determined by the nature of the duties to be performed.

2. Occupational health services shall carry out their functions in co-operation with the other services in the undertaking.

3. Measures shall be taken, in accordance with national law and practice, to ensure adequate co-operation and co-ordination between occupational health services and, as appropriate, other bodies concerned with the provision of health services.

#### Article 10

The personnel providing occupational health services shall enjoy full professional independence from employers, workers, and their representatives, where they exist, in relation to the functions listed in Article 5.



*Article 11*

The competent authority shall determine the qualifications required for the personnel providing occupational health services, according to the nature of the duties to be performed and in accordance with national law and practice.

*Article 12*

The surveillance of workers' health in relation to work shall involve no loss of earnings for them, shall be free of charge and shall take place as far as possible during working hours.

*Article 13*

All workers shall be informed of health hazards involved in their work.

*Article 14*

Occupational health services shall be informed by the employer and workers of any known factors and any suspected factors in the working environment which may affect the workers' health.

*Article 15*

Occupational health services shall be informed of occurrences of ill health amongst workers and absence from work for health reasons, in order to be able to identify whether there is any relation between the reasons for ill health or absence and any health hazards which may be present at the workplace. Personnel providing occupational health services shall not be required by the employer to verify the reasons for absence from work.

PART V. GENERAL PROVISIONS

*Article 16*

National laws or regulations shall designate the authority or authorities responsible both for supervising the operation of and for advising occupational health services once they have been established.

*Article 17*

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

*Article 18*

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

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

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

*Article 19*

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

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

*Article 20*

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

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

*Article 21*

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

*Article 22*

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

*Article 23*

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

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 19 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.