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**IOE GUIDE FOR EMPLOYERS ON  
ILO RECOMMENDATION 202 (2012)  
ON SOCIAL PROTECTION FLOORS**

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INTERNATIONAL ORGANISATION OF EMPLOYERS

## EMPLOYERS TAKING ACTION

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- ▶ It is important that IOE member organisations participate in national discussions on the implementation plans for the 2012 ILO Recommendation on Social Protection Floors (202). (referred to in this publication as the “Recommendation”).
- ▶ Even though the systems vary from country to country, employers usually have a major obligation for supporting social protection schemes either by being the main contributors to specific social funds, or by business taxes being earmarked for hypothecated funds or for funding the general state systems. More generally, the diffusion of social security systems can play a part in stabilising migration and stimulating integration and diversity.
- ▶ The information in this publication
  - Helps IOE members consider their positions and the context on the likely initiatives that Governments may introduce.
  - Provides links to practical ideas and best practice examples.
- ▶ The Recommendation stresses that there should be participation with representative organizations of employers and workers in developing the measures and IOE members should take advantage of this to engage in the discussions. Those representative organisations with resources that are able to provide solutions to the challenges should have priority for involvement in negotiations.
- ▶ Employers can play a vital role in ensuring strategic and practical considerations are properly addressed. They are an important voice for prudent, cross-sectoral action arising from the discussions.
- ▶ IOE members should urge governments to review properly the existing arrangements and any proposed changes, to pursue the most appropriate approaches to achieving economic and employment growth in the prevailing circumstances. They should encourage the justification of priorities and changes by cost benefit analysis and consideration of unintended consequences.
- ▶ By reaffirming that access to social security is a human right and referencing the Universal Declaration of Human Rights in the Recommendation, the intention is for universal provision of social security beyond those in need. IOE members should support the need for balance and equity between the responsibilities and rights of donors and recipients. IOE members should ensure that any action proposed has proper time for implementation and review.
- ▶ There are commercial and business opportunities for IOE members in providing information and training on the Recommendation and other instruments on Social Protection
- ▶ By using the IOE network, ILO database and ISSA Observatory they can find out what is happening in other countries and whether the proposals are aligned with their own Government’s initiatives.

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## EXECUTIVE SUMMARY

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The 2012 International Labour Conference (ILC) created the new autonomous Recommendation (202) relating to Social Protection Floors. As it is a Recommendation it is non-binding on Member States who can choose to use it as guidance.

It identifies a 2 stage approach – for Member States to first achieve a basic level of social protection – (the floor) tailored to national circumstances and then when national circumstances allow, social protection should be extended in scope and eligibility to aspire to ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and other relevant ILO instruments.

Whilst the Recommendation 202 is autonomous it should not be considered in isolation. Background information is provided on these other relevant ILO instruments, their policy and practical context and implications, which will inform IOE members in their engagement with Governments and others, on the way forward.

Social security systems should be an integral part of the sustainable development plans of nations structured for the needs and means of the country and should incentivise growth of formal employment and sustainable enterprises.

IOE members should engage closely and early with the implementation measures at the national level because

- Employers will most likely, either directly or indirectly, be a major funder for social protection measures
- The standards require Governments to consult established IOE members on implementation of Recommendations and ratification of Conventions
- IOE members can play a vital role in ensuring strategic and practical considerations are properly reviewed, and that governments pursue the most appropriate approaches to social protection in their national context.
- Implementing social security requirements will involve business in costs and will provide IOE members with business opportunities.

There is no single approach that can be recommended to IOE members when considering whether and how they should support national implementation of the guidance in the Recommendation because there are so many variables. Though there are some suggested principles common to IOE members. IOE members should consider e.g. the current social protection systems, the objectives that are achieved, the current funding arrangements and their sustainability, the industrial and employment development situations, current living standards, average wages, taxation systems, unemployment levels and future employment developments, enforcement arrangements, barriers to diversity, immigration and emigration.

## THIS GUIDE

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Is aimed at IOE members who are representative business and employers' organisations worldwide, in discussions with their national governments.

Is not a legal or financial interpretation or advice and should not be taken as such. It is general comment only.

Provides information on the background, proceedings and outcome of the 2012 ILC discussion on Social Protection Floors. It puts it in the current context and considers the opportunities and implications for businesses.

It suggests some negotiating strategies and principles that IOE members can use as a basis for their discussions with national Governments.

The IOE would welcome any comments or examples from members of experience and best practice that can be incorporated into any future revision.

### COMMERCIAL OPPORTUNITIES FOR IOE MEMBERS

Although the implementation and extension of social security protection will most likely add costs to businesses there is the potential for new commercial opportunities for IOE members by increasing their membership and generating revenue from services related to new employer obligations. There are also business opportunities for the private sector in providing services within the new social security systems. Strong arguments should be made that there should be private as well as state provision.

### PRINCIPLES FOR WORKING WITH GOVERNMENTS AND OTHER STAKEHOLDERS

There are a number of guiding principles for IOE members in approaching implementation of the guidance in the Recommendation in national law and practice:

If an ILO member state has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), as more than 133 countries have done to date, it is obliged to hold national tripartite consultations on proposed new instruments to be discussed at the Conference, on submissions of instruments to the competent authorities, on reports

concerning ratified conventions, on measures related to unratified conventions and recommendations, and on proposals regarding the denunciation of conventions.

Standard wording on consultation appears throughout the Recommendation. It requires tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned. IOE members are the representative organizations of employers. Governments should be reminded of their obligations and IOE members should take up the opportunities that Convention 144 and Recommendation 202 provide. Leaving this to workers, government officials, and activist NGOs will not yield positive outcomes for employers, businesses and enterprises.

**Early engagement with government:** IOE members should enquire of Governments at an early stage about their intentions for implementing the provisions of the Recommendation. Once ministers and officials have started drafting implementation plans it is often too late to influence them in favour of proposals that may enhance the sustainability of enterprises.

**Governments must do due diligence prior to implementation:** IOE members should urge governments to undertake due diligence prior to making any decisions on implementation, including:

- Researching the existing situation on social security, how it operates and whether it achieves the intended objectives
- Subjecting proposals to cost benefit analysis
- Examining the unintended consequences
- Setting realistic priorities

**Use options for progressive implementation:** IOE members should draw governments' attention to options to implement changes over time, and to prioritise their actions for maximum effectiveness and impact.

**Use options for flexibility:** Most ILO Conventions and Recommendations allow implementation in accordance with national law and practice. It is important that IOE members understand their legal systems and practices so that they can achieve efficient, effective actions aligned with current practice.

## THE IMPLICATIONS OF IMPLEMENTING CONVENTIONS AND RECOMMENDATIONS

International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers). They set out basic principles and rights at work. They are either *conventions*, which are legally binding international treaties that may be ratified by member states, or *recommendations*, which serve as non-binding guidelines. A Recommendation can often be autonomous or it is linked to and supplements a convention by providing more detailed guidelines on how it could be applied.

Once a standard is adopted, member states are required under the ILO Constitution to *submit* them to their competent authority (normally the parliament) for consideration. In the case of conventions, this means consideration for *ratification*. If it is ratified, a convention generally comes into force for that country one year after the date of ratification. Ratifying countries commit themselves to applying the convention in national law and practice and reporting to the ILO on its application at regular intervals. The ILO provides technical assistance if necessary.

Recommendations do not establish obligations on Member States, but serve exclusively to define standards intended to guide the action taken by Governments. Recommendations, if implemented by Member States do not have to be submitted to the ILO reporting procedures. However, the Reports of the Committee of Experts (independent legal commentators) often pick topics to scrutinize and give their views as to the effectiveness of measures provided by Member States.

Whilst Recommendation 202 is a stand-alone measure aimed at Governments, it cannot be viewed in isolation as a Government's views on applying the guidance will be informed by their views on and ratification of other ILO standards in the area of social protection.

## BACKGROUND AND REFERENCE DOCUMENTS LEADING TO THE ADOPTION OF THE RECOMMENDATION

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The Recommendation on Social Protection Floors (R202) adopted by the International Labour Conference 2012 calls for providing people with basic essential health care and income security throughout the lifecycle, aimed at reducing poverty, inequality and ill health for the 5 billion people that currently do not have social security provisions. It has taken many years to realise this development, which is seen as necessary because previous ILO initiatives have failed to be universally applied and the global political and economic situations have exacerbated insecurity.

### OTHER ILO MEASURES AND INITIATIVES ON SOCIAL PROTECTION

The ILO has adopted 31 Conventions and 23 Recommendations on social security issues since its foundation. See <http://www.ilo.org/ilolex/english/convdisp1.htm>.

The main Conventions are:

1. Social Security (Minimum Standards) Convention, 1952 (No. 102) *47 Ratifications*
2. Employment Injury Benefits Convention, 1964 (No. 121) *24 Ratifications*
3. Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) *16 Ratifications*
4. Medical Care and Sickness Benefits Convention, 1969 (No. 130) *15 Ratifications*
5. Employment Promotion and Protection against Unemployment Convention, 1988 (No.168) *8 Ratifications*
6. Maternity Protection Convention, 2000 (No. 183) *23 Ratifications*

The poor rate of ratification is despite intensive efforts to promote them. See <http://www.ilo.org/public/english/protection/secsoc/areas/legal/standard.htm>. For a more complete list of the Standards relating to social protection. Ratifications vary and the majority are by European countries. According to the ILO, the reason for the low rate of ratification is mainly that the instruments are *unaffordable for most developing countries*

Social Security (Minimum Standards) Convention, 1952 (No. 102) is the main one:

- It has never been revised.
- It defines nine branches of social security and sets minimum standards for each. These are: Medical care; Sickness benefit; Unemployment benefit; Old-age benefit; Employment injury benefit; Family benefit; Maternity benefit; Invalidity benefit; and Survivors' benefit.

- Minimum objectives are set for each contingency with regard to:
  - a minimum percentage of the population protected in case of occurrence of one of the contingencies;
  - a minimum level of benefits to be paid in case of occurrence of one of the contingencies;
  - the conditions for and periods of entitlement to the prescribed benefits.
- It also has a flexibility clause that enables gradual ratification - allowing ratifying States to accept as a minimum three out of the nine branches of social security, with at least one of those three branches covering a long-term contingency or unemployment and with a view to extending coverage to other contingencies at a further stage.

## RECENT DEVELOPMENTS

In 2008 the ILO sought to promote a new international labour standard on social security, The IOE strongly supports initiatives to encourage wide coverage of social security, but does not believe that the best way to achieve it is through a normative instrument. See <http://www.ioe-emp.org/en/policy-areas/index.html> Social Security for all: a framework for action, POSITION PAPER, October 2008.

However the economic crisis of 2008 provoked a UN examination and in April 2009 the Social Protection Floor initiative, was launched as one of the nine UN joint initiatives to cope with the effects of the crisis. The Social Protection Floor is a global social policy approach promoting integrated strategies for providing access to essential social services and income security for all. It is co-led by the International Labour Office and the World Health Organization and involves a group of 17 collaborating agencies, including United Nations agencies and international financial institutions. Within the framework of the Social Protection Floor Initiative, the Social Protection Floor Advisory Group (Bachalet) was created to enhance global advocacy activities and to develop policy aspects of the approach.

The Advisory Group provides general guidance in several areas related to the feasibility, applicability and adaptability of the social protection floor concept and its implementation process in different socioeconomic and institutional contexts at the local, national, regional and global levels. It collaborates in the identification of good practices around the world and contributes to catalyzing exchanges between developed and developing countries, and through South-South cooperation.

see [http://www.ilo.org/global/publications/books/WCMS\\_165750/lang--en/index.htm](http://www.ilo.org/global/publications/books/WCMS_165750/lang--en/index.htm)

In 2011 the ILC discussion sought current views and positions and a Resolution agreed that a Recommendation should be drafted and discussed at ILC 2012 see PR No. 24 - Report of the Committee for the Recurrent Discussion on Social Protection (80 pages) [http://www.ilo.org/ilc/ILCSessions/100thSession/reports/provisional-records/WCMS\\_157820/lang--en/index.htm](http://www.ilo.org/ilc/ILCSessions/100thSession/reports/provisional-records/WCMS_157820/lang--en/index.htm) emphasized “the need for a Recommendation complementing the existing standards that would provide flexible but meaningful guidance to member States in building Social Protection Floors within comprehensive social security systems tailored to national circumstances and levels of development”

The IOE views can be found at <http://www.ioe-emp.org/en/policy-areas/index.html> The Concept of the Social Protection Floor – Explanatory Note for Employers, IOE NOTE, February 2011 (E -F- S)

The 101st Session (2012) of the Conference had a single standard setting discussion which elaborated and adopted the **autonomous Recommendation** on the social protection floors. The background reports for this debate provide much valuable and current information:

- Report IV(1): Social protection floors for social justice and a fair globalization - provides information on the law and practice concerning the establishment of a social protection floor at national level, including an overview of the main developments and emerging trends worldwide.
- Report IV(2A): Social protection floors for social justice and a fair globalization - was prepared on the basis of the replies received from governments and organizations of employers and workers to the questionnaire and contains the substance of their observations together with the Office’s commentary on the replies and on the proposed text of the Recommendation.
- Report IV(2B): Social protection floors for social justice and a fair globalization - contains the French and English versions of the proposed text which, if the Conference so decides, will be the basis for discussion of the standard-setting item on the elaboration of an autonomous Recommendation on the social protection floor at its 101st Session (2012).

# VARIATIONS IN SOCIAL PROTECTION PRACTICES

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## DIFFERENT TYPES OF SOCIAL PROTECTION

The concepts have changed over time and are used differently in different cultures; the ILO definitions below identify the variety of systems.

### **SOCIAL TRANSFERS**

Social transfers represent a transfer from one group in a society to another (e.g. from the active age groups to the old) either in cash or in kind (access to goods and social services). The recipients qualify because they have earned entitlements through fulfilling obligations (e.g. paying contributions) and/or meeting certain social or behavioural conditions (e.g. being sick; being poor; carrying out public works). In recent years, this term has been used to describe schemes for all residents that provide benefits under the single condition of residence (universal cash transfers) or social assistance schemes that require additional behavioural conditions as prerequisites (conditional cash transfers).

### **SOCIAL PROTECTION**

Social protection is often interpreted as having a broader character than social security (including, in particular, protection provided between members of the family or members of a local community). It is also used in some contexts with a narrower meaning than social security (understood as comprising only measures addressed to the poorest, most vulnerable or excluded members of society). Thus, unfortunately, in many contexts the terms “social security” and “social protection” are used interchangeably. In this report, pragmatically, the term “social protection” is used to mean protection provided by social security systems in the case of social risks and needs.

### **SOCIAL SECURITY**

The notion of social security covers all measures providing benefits, whether in cash or in kind, to secure protection, from:

- lack of work-related income (or insufficient income) caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member;
- lack of access or unaffordable access to health care;
- insufficient family support, particularly for children and adult dependants;
- general poverty and social exclusion.

Social security schemes can be of a contributory (social insurance) or non-contributory nature.

### **SOCIAL ASSISTANCE**

Social security benefits that are conditional on the level of income of recipient, i.e. are means-tested or based on similar forms of targeting (e.g. proxy means test, geographical targeting), are generally called social assistance. They are a device to alleviate/reduce poverty. Benefits can be delivered in cash or in kind.

- “Conditional” social assistance schemes require beneficiaries (and/or their relatives or families); in addition to other conditions, to participate in prescribed public programmes (e.g. specified health or educational programmes). In recent years, schemes of this type have become known as *conditional cash transfer (CCT)* schemes.
- Social assistance schemes are usually tax-financed and do not require a direct contribution from beneficiaries or their employers as a condition of entitlement to receive relevant benefits.

### **SOCIAL PROTECTION FLOOR**

The term “social floor” or “Social Protection Floor” (SPF) is used to describe a basic set of social rights, services and facilities that every person should enjoy. The term “social floor” corresponds in many ways to the existing notion of “core obligations”, to ensure the realization of minimum essential levels of rights embodied in human rights treaties. The United Nations suggests that a social protection floor could consist of two main elements that help to realize human rights:

- services: geographical and financial access to essential services such as water and sanitation, health, and education;
- transfers: a basic set of essential social transfers, in cash or in kind, to provide minimum income security and access to essential services, including health care.

## PRACTICAL IMPLICATIONS AND THE PRESSURES FOR CHANGE IN SOCIAL PROTECTION SYSTEMS

Most Member States recognize the need for social security for people who are perceived to be in need of societal support, while seeking to strike a new balance between rights and duties in social security systems and a shift of emphasis from “care and repair” (through transfers) to prevention (preventing unemployment or occupational disability). Increasing the employment rate is thus of the utmost importance as it is considered to be the best way to reduce the number of unemployment benefit recipients.

However the costs are spiraling as societies’ expectations of state provisions are increasing and there are many drivers for reforms.

### **REFORMS IN HIGH-INCOME COUNTRIES**

#### ***Healthcare***

In the face of increased life expectancy, medical and technological advances and increased societal expectations, reform of the health care sector and health insurance schemes has been necessary to moderate cost increases, improving quality through standards and provide equitable accessibility

#### ***Social protection affordability and stimulating employment***

The actual reforms in high-income countries are aimed at helping people go back to or remain in work and making the labour market more dynamic. They consist mainly of five types of measures:

- Fostering self-reliance of individuals,
- Creating a dynamic labour market that offers opportunities,
- Developing new branches of social security,
- Achieving a new balance between expenditures and income in pension schemes,
- Parametric reforms of social security systems and automatic adjustment mechanisms

#### **Fostering self-reliance of individuals**

Measures introduced that seek a new balance between individuals’ social rights and their responsibility for making full use of their own capacities by incentivising

- flexicurity;
- arrangements to increase employability in order to reduce the risk of unemployment and improve return to work prospects

- preventive measures in order to minimize risks of illness, employment injury and occupational disease and invalidity;
- measures preventing dependency;
- measures to prevent the abuse of social security benefits.

In several branches of social security (e.g. pension schemes and health and illness insurance) elements of private insurances are being strengthened while the public social security institutions are partially retreating.

#### Creating a dynamic labour market that offers opportunities

Rather than taking measures to protect certain jobs in the face of global competition, the focus is shifted to foster employability and entrepreneurship to assist people to get jobs. This requires workers be given the means and the income security to adapt to changes on the labour market by providing lifelong training and education measures so that workers remain sufficiently employable but also have adequate social security during job search and retraining. Often special measures are needed for people facing specific hiring barriers (older workers, young persons in the transition between school and/or vocational training and the entrance into the labour market, people with handicaps, migrants, and long-term unemployed).

#### Developing new branches of social security

Policy solutions to new social challenges also include the introduction of new social security branches adopted by a number of high-income countries:

- compulsory long-term nursing care insurance for the elderly (Austria, 1993; Germany, 1995; Japan; 2000; Luxembourg, 1999; the Netherlands, 1968). Demographic changes and increased life expectancy means many family members cannot provide and finance this care.
- parental leave insurance as a means of combining work with family responsibilities (Germany, 2007; Quebec [Canada], 2006; Sweden, 1974). This new branch of social insurance facilitates the interruption of remunerated work by one parent to allow him/her to take care of the child at home for a prescribed period of time, during which a benefit is paid.

#### Achieving a new balance between expenditures and income in pension schemes

Many countries instituted pension scheme reforms, often with long transition periods, aimed at restoring the balance between increased expenditures and reduced income so as to safeguard the schemes' financial viability in the future. One way was to

introduce a new balance between the period of active working life and the period of pension receipt by.

- raising the “normal” *retirement age*,
- abolishing incentives for early retirement by raising “normal” retirement age in combination with an actuarial reduction factor
- options for older workers to reduce their working time and to combine part-time work with a partial old-age pension.

In order to improve the financial sustainability of first tier pay-as-you-go defined benefit pension systems despite worsening dependency rates, the schemes were complemented by mandatory or voluntary fully funded defined contribution schemes that compensate for declining levels of protection of the first tier schemes. These schemes are by definition in automatic financial equilibrium but do not always guarantee predefined benefit levels for contributors. The financial, economic and fiscal crisis experienced over the last five years has exerted major stress on funded, private pension arrangements. The OECD has found that most countries pension funds are still in deficit in terms of cumulative investment performance over the period 2007-11.

#### *Parametric reforms of social security systems and automatic adjustment mechanisms*

Parametric reforms are aimed at increasing sustainability by maintaining the basic structure of the existing system while attempting, through changes in the different main parameters of the system, to not only increase the incentives to work for older workers but to reduce the budgetary cost of ageing. These basic parameters include, for example, the retirement age, (the statutory old-age retirement age and the effective retirement age), the replacement ratio (defined by direct pension benefits, ceilings, indexation rules, etc.) and the contribution rate.

In view of the profound diversity of systems, an appropriate set of parametric reforms cannot be the same for every country. However broadly speaking, public pension systems can be divided into two categories: those providing a basic income irrespective of wages earned or contributions and those where pensions are related to past earnings, while at the same time a minimum pension is preserved.

In countries with earnings-related systems, where the level of pension benefits appears high enough to be considered a priority for parametric reforms, such reforms could take three directions:

(i) an increase in the number of years of pension contribution taken into account in calculating pensions, e.g. the whole work career, and/or a more actuarial link between benefits and contributions.

(ii) a shift in the indexation of pension benefits from wages to prices or, at least, to a base lower than a wage indexation (for instance, hybrid price and wage indices or prices plus discretionary increases).

(iii) a shift from wages towards prices in the indexation of wages that are taken into account in calculating the reference (pensionable) salary.

Reform strategies need to take into account the time spent in retirement as the ongoing increase in life expectancy has a large impact on the budgetary cost of ageing. In earnings-related systems, the most straightforward answer especially in terms of increased incentives to work would be to link in a more actuarial way the replacement rate or the contribution rate of a cohort to its life expectancy.

### ***TRENDS IN MIDDLE INCOME PER CAPITA COUNTRIES***

It is more difficult to generalize about trends and developments since middle-income countries are not a homogenous group and some are facing the challenges noted for high income countries. Some common trends do emerge, however. Many Latin American countries have enjoyed long periods of sound economic growth and had developed social security schemes that covered workers in the formal industrial and agricultural sector. More recently high public deficits and debt have led to cuts in social expenditure. There has also been a decline in the formal sector and growth of informality. In several countries of Latin America in the 1980s, pay-as-you go public pension systems were replaced by individual capitalization schemes run by private funds. When these schemes were not successful they had to be rescued by tax-financed minimum pension guarantees. Economic recovery in some countries, has favoured the adoption of new social benefits.

In South-East Asia and parts of East Asia despite some periods of strong economic growth many of the countries had no unemployment insurance schemes, and during recessions a substantial share of the affected population fell into poverty. The traditional informal kinship-based social net could not absorb the negative effects of deep recessions that have heightened the importance of creating sound public social security schemes.

The transition process in Central and Eastern European countries from centrally planned to market-oriented economies since 1990 has led to high structural unemployment, a sharp

drop in the employment rate in the formal economy, the creation of an informal economy, and internal and external migration flows. The inherited inflexible social security systems were not structured to compensate these effects adequately. Returning economic growth rates have increased employment and can create the fiscal space for reformed social security schemes. The following tendencies can be observed in more or less all regions:

- a relatively high and increasing income disparity exists between small groups of people with high income and larger groups of people with very low income. Economic growth did not generate more income equality;
- within countries there is a relatively wide prosperity gap between different regions expressed in terms of income per capita, employment rate, unemployment rate, social infrastructure and the respective shares of formal and informal employment. This causes migratory pressures.
- some countries have political unrest and a high frequency of natural disasters (epidemics, earthquakes, floods, droughts). People with low income are much more vulnerable as they have no reserves that enable them to cope with such catastrophes;

# APPROACHES TO IMPLEMENTING THE BASIC REQUIREMENTS OF THE RECOMMENDATION

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## THE CHALLENGES FOR EMPLOYERS' ORGANISATIONS

Some countries have little provision and little coverage and would be unable to provide any, others have little provision and coverage but are able to move towards provision. Other countries have good provision and coverage and cannot afford to continue at this level. A few countries have good provision and coverage and can afford to continue with this. So it is not possible to be prescriptive about how IOE members should approach negotiations on implementation of the Recommendation.

In all countries except this last category, the changes required to introduce sustainable social protection systems will involve challenges and transition policies that are likely to focus funding provisions, either directly or indirectly, on employers.

Many countries that have systems in place, have a multiplicity of bodies involved in the delivery and funding of social protection services, often with overlapping responsibilities, financial deficits in different funds, inefficient and ineffective management policies, and most importantly, challenges for Governments in funding for those bodies. The adoption of any of the ILO social protection instruments may require restructuring, capacity building and coordination of existing bodies and/or the development of new bodies to provide better services to their stakeholders.

## THE STRUCTURE OF THE RECOMMENDATION

See Annex 1 for the text of the Recommendation which is structured in 5 main parts

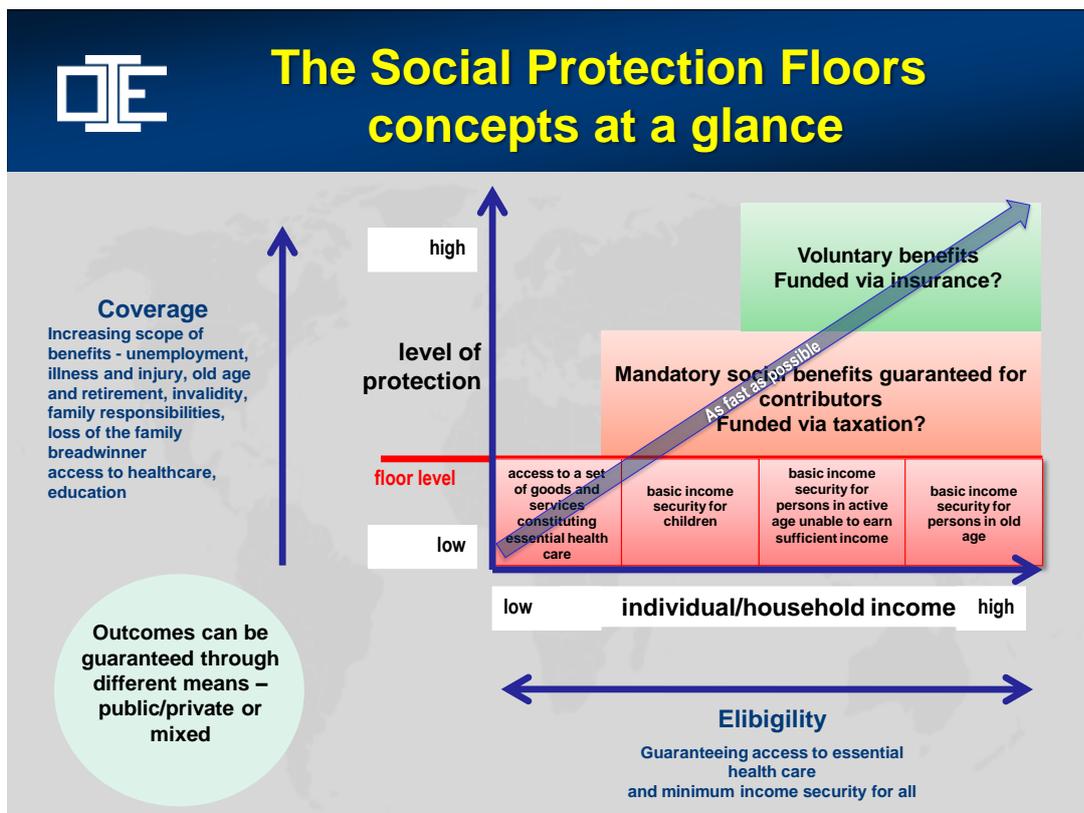
- 1. THE GENERAL PREAMBLE - WITH REFERENCE TO RELEVANT INTERNATIONAL AND ILO ISSUES**
- 2. OBJECTIVES, SCOPE AND PRINCIPLES (ARTICLES 1-3)**
- 3. NATIONAL SOCIAL PROTECTION FLOORS(ARTICLES 4-12)**
- 4. NATIONAL STRATEGIES FOR THE EXTENSION OF SOCIAL SECURITY (ARTICLES 13-18)**
- 5. MONITORING (ARTICLES 19-24)**

## OBJECTIVES, SCOPE AND PRINCIPLES

The Recommendation is addressed to ILO Member states and proposes that countries

- implement the 4 basic elements of their Social Protection Floors as early as possible in national development processes, then
- extend the scope of protection and eligibility to provide universal coverage

The decisions about what constitutes social protection floors, eligibility, delivery arrangements, extension strategies, funding and sustainability arrangements must be taken at national level considering the national context, cultures and means.



The principles that should be applied when designing social protection floors and implementing social security extension strategies are:

- (a) universality of protection, based on social solidarity;
- (b) entitlement to benefits prescribed by national law;
- (c) adequacy and predictability of benefits;
- (d) non-discrimination, gender equality and responsiveness to special needs;
- (e) social inclusion, including of persons in the informal economy;
- (f) respect for the rights and dignity of people covered by the social security guarantees;
- (g) progressive realization, including by setting targets and time frames;

- (h) solidarity in financing while seeking to achieve an optimal balance between the responsibilities and interests among those who finance and benefit from social security schemes;
- (i) consideration of diversity of methods and approaches, including of financing mechanisms and delivery systems;
- (j) transparent, accountable and sound financial management and administration;
- (k) financial, fiscal and economic sustainability with due regard to social justice and equity;
- (l) coherence with social, economic and employment policies;
- (m) coherence across institutions responsible for delivery of social protection;
- (n) high-quality public services that enhance the delivery of social security systems;
- (o) efficiency and accessibility of complaint and appeal procedures;
- (p) regular monitoring of implementation, and periodic evaluation;
- (q) full respect for collective bargaining and freedom of association for all workers; and
- (r) tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned.

These principles are very broad and imprecise and can be used by negotiators to achieve their own objectives. The principles (h) to (k) are very important for IOE members, certainly if employers are a major funder for social protection measures; principle (l) is also important because of the link with the economic field. IOE members will need to be alert to those principles that could be used to support their own position and those that could undermine their arguments. IOE members should be able to muster defences and counter-arguments, remembering that the Recommendation is guidance only.

The Recommendation requires social security to benefit people in the informal, as well as the formal economy, but it should be structured so that it incentivizes formal employment and the reduction of informality.

This is particularly challenging as generally people in the informal economy have made no contribution to the systems that are used to support social protection programmes and they will gain benefit from them. The way that social support programmes for people in the informal economy are structured and monitored is most important if they are to be equitable to all contributors as well as to incentivize formal employment.

## NATIONAL SOCIAL PROTECTION FLOORS

The social protection floors should provide

1. access to essential health care,
2. basic income security for children, providing access to nutrition, education, care and any other necessary goods and services;
3. basic income security for persons in active age who are unable to earn sufficient income, e.g. in cases of sickness, unemployment, maternity and disability; and
4. basic income security for older persons.

These basic guarantees, eligibility and levels of benefit should be established in accordance with national laws. Applicants should have free access to complaints and appeal procedures.

The levels at which these guarantees are set and reviewed require consultation with IOE members and will depend on national circumstances, needs and provisions but are underpinned by basic principles of allowing people dignity and access.

They should be provided for all residents and children as defined in national laws and regulations and subject to a country's existing international obligations. The lack of precision of this was recognised, particularly in relation to residence, domicile, tax status and property ownerships and was left deliberately to a country to determine in relation to their own needs and norms and their relationships with their allies and neighbours.

There are examples of the types of benefits and funding schemes that may be provided for the social protection floors in articles 9-11, but no preference is expressed and there is no limitation to innovation and developments provided they deliver schemes that are efficient and effective in the national context.

IOE members should consider the opportunities for their members to provide services alongside the public sector, in partnership with the public sector, or instead of the public sector. When designing and implementing national social protection floors, Member States are encouraged to take a holistic approach and look at a combination of preventive, promotional and active measures, benefits and services; that promote productive economic activity and formal employment. They should ensure coordination of policy areas such as tax incentives, education, vocational training, taking into account the contributory capacities of

different population groups, enforcement of tax and contribution obligations, measures to prevent fraud, tax evasion and non-payment of contributions.

IOE members should ask their Governments and assist them, where possible, in making a projection of future expenses and resources in the mid-term (5 years) and in the longer term (20-30 years) in view of maintaining a financial sustainable system". The EU has developed a methodology for such projections; it can perhaps be used for other countries, especially when developing the social protection system.

## NATIONAL STRATEGIES FOR THE EXTENSION OF SOCIAL SECURITY

The implementation of social protection floors is considered to be the starting point for countries that currently do not have any minimum provision of social security guarantees. Once the basic guarantees are achieved, countries should then seek to provide higher levels of protection to as many people as possible, as soon as possible, considering national needs and funding.

The following steps should be taken to implement national social security extension strategies.

- (a) set objectives reflecting national priorities;
- (b) identify gaps in, and barriers to, protection;
- (c) seek to close gaps in protection through appropriate and effectively coordinated schemes, whether contributory or non-contributory, or both, including through the extension of existing contributory schemes to all concerned persons with contributory capacity;
- (d) complement social security with active labour market policies, including vocational training or other measures, as appropriate;
- (e) specify financial requirements and resources as well as the time frame and sequencing for the progressive achievement of the objectives; and
- (f) raise awareness about social protection floors and their extension strategies, and undertake information programmes, including through social dialogue.

Whilst the ambition of the Recommendation is to aspire to constant improvement in social security provision there is a level at which it may encourage a dependency culture. This is recognized in the provision that extension strategies must incentivize growth of formal employment, the reduction of informality and be consistent with national social, economic and environmental development plans. IOE members should be particularly analytical that the systems introduced do not have unintended consequences.

Disadvantaged groups and people with special needs should have special consideration when social security extension strategies are being designed.

The Recommendation proposes that countries should consider ratification of Social Security (Minimum Standards) Convention, 1952 (No. 102). However the barriers to ratification of 102 are not necessarily lowered by implementing the guidance in this Recommendation as

countries will have to have all the requirement of 102 transposed to national laws and submit them to the ILO reporting and scrutiny procedures.

## **MONITORING**

Progress of the effectiveness of the social protection floors and national social security extension strategies in delivering national objectives should be monitored and this should involve discussion with IOE members. Information and data, disaggregated by gender, should be collected. However there should be legal protection ensuring the security of private individual information.

This will create obligations on employers as they most likely have to play some part in the submission of information and data for such monitoring purposes and IOE members should seek to ensure that new systems do not add inappropriate burdens to business and are aligned with their current arrangements.

Countries are encouraged to use standardized ILO methodologies for data collection and analysis so that the information can be shared and disseminated in the international community for countries to learn from practices and experiences.

In principle this is a sound idea as the ILO already has an extensive database of information; however some countries would have to make changes to their data collection and analysis systems that would disrupt their own trend analysis.

## **ANNEX 1 - THE TEXT OF THE SOCIAL PROTECTION FLOORS RECOMMENDATION, 2012 (NO. 202)**

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The text of the Recommendation can be found at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:3065524:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:3065524:NO)

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 101st Session on 30 May 2012, and

Reaffirming that the right to social security is a human right, and

Acknowledging that the right to social security is, along with promoting employment, an economic and social necessity for development and progress, and

Recognizing that social security is an important tool to prevent and reduce poverty, inequality, social exclusion and social insecurity, to promote equal opportunity and gender and racial equality, and to support the transition from informal to formal employment, and

Considering that social security is an investment in people that empowers them to adjust to changes in the economy and in the labour market, and that social security systems act as automatic social and economic stabilizers, help stimulate aggregate demand in times of crisis and beyond, and help support a transition to a more sustainable economy, and

Considering that the prioritization of policies aimed at sustainable long-term growth associated with social inclusion helps overcome extreme poverty and reduces social inequalities and differences within and among regions, and

Recognizing that the transition to formal employment and the establishment of sustainable social security systems are mutually supportive, and

Recalling that the Declaration of Philadelphia recognizes the solemn obligation of the International Labour Organization to contribute to "achiev[ing] ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care", and

Considering the Universal Declaration of Human Rights, in particular Articles 22 and 25, and the International Covenant on Economic, Social and Cultural Rights, in particular Articles 9, 11 and 12, and

Considering also ILO social security standards, in particular the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), and noting that these standards are of continuing relevance and continue to be important references for social security systems, and

Recalling that the ILO Declaration on Social Justice for a Fair Globalization recognizes that "the commitments and efforts of Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards, and to place full and productive employment and decent work at the centre of economic and social policies, should be based on ... (ii) developing and enhancing measures of social protection ... which are sustainable and adapted to national circumstances, including ... the extension of social security to all", and

Considering the resolution and Conclusions concerning the recurrent discussion on social protection (social security) adopted by the International Labour Conference at its 100th Session (2011), which recognize the need for a Recommendation complementing existing ILO social security standards and providing guidance to Members in building social protection floors tailored to national circumstances and levels of development, as part of comprehensive social security systems, and

Having decided upon the adoption of certain proposals with regard to social protection floors, which are the subject of the fourth item on the agenda of the session, and

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

adopts this fourteenth day of June of the year two thousand and twelve the following Recommendation, which may be cited as the Social Protection Floors Recommendation, 2012.

## **I. OBJECTIVES, SCOPE AND PRINCIPLES**

1. This Recommendation provides guidance to Members to:

(a) establish and maintain, as applicable, social protection floors as a fundamental element of their national social security systems; and

(b) implement social protection floors within strategies for the extension of social security that progressively ensure higher levels of social security to as many people as possible, guided by ILO social security standards.

2. For the purpose of this Recommendation, social protection floors are nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion.

3. Recognizing the overall and primary responsibility of the State in giving effect to this Recommendation, Members should apply the following principles:

(a) universality of protection, based on social solidarity;

(b) entitlement to benefits prescribed by national law;

(c) adequacy and predictability of benefits;

(d) non-discrimination, gender equality and responsiveness to special needs;

(e) social inclusion, including of persons in the informal economy;

(f) respect for the rights and dignity of people covered by the social security guarantees;

(g) progressive realization, including by setting targets and time frames;

(h) solidarity in financing while seeking to achieve an optimal balance between the responsibilities and interests among those who finance and benefit from social security schemes;

(i) consideration of diversity of methods and approaches, including of financing mechanisms and delivery systems;

(j) transparent, accountable and sound financial management and administration;

(k) financial, fiscal and economic sustainability with due regard to social justice and equity;

(l) coherence with social, economic and employment policies;

(m) coherence across institutions responsible for delivery of social protection;

(n) high-quality public services that enhance the delivery of social security systems;

(o) efficiency and accessibility of complaint and appeal procedures;

(p) regular monitoring of implementation, and periodic evaluation;

(q) full respect for collective bargaining and freedom of association for all workers; and

(r) tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned.

## II. NATIONAL SOCIAL PROTECTION FLOORS

4. Members should, in accordance with national circumstances, establish as quickly as possible and maintain their social protection floors comprising basic social security guarantees. The guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level.

5. The social protection floors referred to in Paragraph 4 should comprise at least the following basic social security guarantees:

(a) access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability and quality;

(b) basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services;

(c) basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and

(d) basic income security, at least at a nationally defined minimum level, for older persons.

6. Subject to their existing international obligations, Members should provide the basic social security guarantees referred to in this Recommendation to at least all residents and children, as defined in national laws and regulations.

7. Basic social security guarantees should be established by law. National laws and regulations should specify the range, qualifying conditions and levels of the benefits giving effect to these guarantees. Impartial, transparent, effective, simple, rapid, accessible and inexpensive complaint and appeal procedures should also be specified. Access to complaint and appeal procedures should be free of charge to the applicant. Systems should be in place that enhance compliance with national legal frameworks.

8. When defining the basic social security guarantees, Members should give due consideration to the following:

(a) persons in need of health care should not face hardship and an increased risk of poverty due to the financial consequences of accessing essential health care. Free prenatal and postnatal medical care for the most vulnerable should also be considered;

(b) basic income security should allow life in dignity. Nationally defined minimum levels of income may correspond to the monetary value of a set of necessary goods and services, national poverty lines, income thresholds for social assistance or other comparable thresholds established by national law or practice, and may take into account regional differences;

(c) the levels of basic social security guarantees should be regularly reviewed through a transparent procedure that is established by national laws, regulations or practice, as appropriate; and

(d) in regard to the establishment and review of the levels of these guarantees, tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned, should be ensured.

9.

(1) In providing the basic social security guarantees, Members should consider different approaches with a view to implementing the most effective and efficient combination of benefits and schemes in the national context.

(2) Benefits may include child and family benefits, sickness and health-care benefits, maternity benefits, disability benefits, old-age benefits, survivors' benefits, unemployment benefits and employment guarantees, and employment injury benefits as well as any other social benefits in cash or in kind.

(3) Schemes providing such benefits may include universal benefit schemes, social insurance schemes, social assistance schemes, negative income tax schemes, public employment schemes and employment support schemes.

10. In designing and implementing national social protection floors, Members should:

(a) combine preventive, promotional and active measures, benefits and social services;

(b) promote productive economic activity and formal employment through considering policies that include public procurement, government credit provisions, labour inspection, labour market policies and tax incentives, and that promote education, vocational training, productive skills and employability; and

(c) ensure coordination with other policies that enhance formal employment, income generation, education, literacy, vocational training, skills and employability, that reduce precariousness, and that promote secure work, entrepreneurship and sustainable enterprises within a decent work framework.

11.

(1) Members should consider using a variety of different methods to mobilize the necessary resources to ensure financial, fiscal and economic sustainability of national social protection floors, taking into account the contributory capacities of different population groups. Such methods may include, individually or in combination, effective enforcement of tax and contribution obligations, reprioritizing expenditure, or a broader and sufficiently progressive revenue base.

(2) In applying such methods, Members should consider the need to implement measures to prevent fraud, tax evasion and non-payment of contributions.

12. National social protection floors should be financed by national resources. Members whose economic and fiscal capacities are insufficient to implement the guarantees may seek international cooperation and support that complement their own efforts.

### **III. NATIONAL STRATEGIES FOR THE EXTENSION OF SOCIAL SECURITY**

13.

(1) Members should formulate and implement national social security extension strategies, based on national consultations through effective social dialogue and social participation. National strategies should:

(a) prioritize the implementation of social protection floors as a starting point for countries that do not have a minimum level of social security guarantees, and as a fundamental element of their national social security systems; and

(b) seek to provide higher levels of protection to as many people as possible, reflecting economic and fiscal capacities of Members, and as soon as possible.

(2) For this purpose, Members should progressively build and maintain comprehensive and adequate social security systems coherent with national policy objectives and seek to coordinate social security policies with other public policies.

14. When formulating and implementing national social security extension strategies, Members should:

(a) set objectives reflecting national priorities;

(b) identify gaps in, and barriers to, protection;

(c) seek to close gaps in protection through appropriate and effectively coordinated schemes, whether contributory or non-contributory, or both, including through the extension of existing contributory schemes to all concerned persons with contributory capacity;

(d) complement social security with active labour market policies, including vocational training or other measures, as appropriate;

(e) specify financial requirements and resources as well as the time frame and sequencing for the progressive achievement of the objectives; and

(f) raise awareness about their social protection floors and their extension strategies, and undertake information programmes, including through social dialogue.

15. Social security extension strategies should apply to persons both in the formal and informal economy and support the growth of formal employment and the reduction of informality, and should be consistent with, and conducive to, the implementation of the social, economic and environmental development plans of Members.

16. Social security extension strategies should ensure support for disadvantaged groups and people with special needs.

17. When building comprehensive social security systems reflecting national objectives, priorities and economic and fiscal capacities, Members should aim to achieve the range and levels of benefits set out in the Social Security (Minimum Standards) Convention, 1952 (No. 102), or in other ILO social security Conventions and Recommendations setting out more advanced standards.

18. Members should consider ratifying, as early as national circumstances allow, the Social Security (Minimum Standards) Convention, 1952 (No. 102). Furthermore, Members should consider ratifying, or giving effect to, as applicable, other ILO social security Conventions and Recommendations setting out more advanced standards.

#### **IV. MONITORING**

19. Members should monitor progress in implementing social protection floors and achieving other objectives of national social security extension strategies through appropriate nationally defined mechanisms, including tripartite participation with representative organizations of employers and workers, as well as consultation with other relevant and representative organizations of persons concerned.

20. Members should regularly convene national consultations to assess progress and discuss policies for the further horizontal and vertical extension of social security.

21. For the purpose of Paragraph 19, Members should regularly collect, compile, analyse and publish an appropriate range of social security data, statistics and indicators, disaggregated, in particular, by gender.

22. In developing or revising the concepts, definitions and methodology used in the production of social security data, statistics and indicators, Members should take into consideration relevant guidance provided by the International Labour Organization, in particular, as appropriate, the resolution concerning the development of social security statistics adopted by the Ninth International Conference of Labour Statisticians.

23. Members should establish a legal framework to secure and protect private individual information contained in their social security data systems.

24.

(1) Members are encouraged to exchange information, experiences and expertise on social security strategies, policies and practices among themselves and with the International Labour Office.

(2) In implementing this Recommendation, Members may seek technical assistance from the International Labour Organization and other relevant international organizations in accordance with their respective mandates.

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