

**Building  
social protection systems:  
International standards and  
human rights instruments**

INTERNATIONAL LABOUR OFFICE  
Geneva

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## Table of contents

	<i>Page</i>
<b>Introduction</b> .....	1
<b>ILO Conventions</b> .....	21
C102 – Social Security (Minimum Standards) Convention, 1952 .....	21
C118 – Equality of Treatment (Social Security) Convention, 1962 .....	36
C121 – Employment Injury Benefits Convention, 1964 .....	39
C128 – Invalidity, Old-Age and Survivors' Benefits Convention, 1967 ..	48
C130 – Medical Care and Sickness Benefits Convention, 1969 .....	60
C157 – Maintenance of Social Security Rights Convention, 1982 .....	67
C168 – Employment Promotion and Protection against Unemployment Convention, 1988 .....	74
C183 – Maternity Protection Convention, 2000 .....	81
<b>ILO Recommendations</b> .....	85
R067 – Income Security Recommendation, 1944 .....	85
R069 – Medical Care Recommendation, 1944 .....	95
R121 – Employment Injury Benefits Recommendation, 1964 .....	104
R131 – Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 .....	106
R134 – Medical Care and Sickness Benefits Recommendation, 1969 ..	108
R167 – Maintenance of Social Security Rights Recommendation, 1983 .....	109
R176 – Employment Promotion and Protection against Unemployment Recommendation, 1988 .....	126
R191 – Maternity Protection Recommendation, 2000 .....	129
R202 – Social Protection Floors Recommendation, 2012 .....	131
R204 – Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) .....	135
R205 – Employment and Decent Work for Peace and Resilience Recommendation, 2017 .....	142

	<i>Page</i>
<b>ILO Constitution, Declarations and Resolutions</b> .....	151
ILO Constitution, 1919 .....	151
Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), 1944 .....	161
ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998.....	163
ILO Declaration on Social Justice for a Fair Globalization, 2008 .....	165
Recovering from the Crisis: a Global Jobs Pact, 2009.....	170
Resolution and conclusions concerning social security, International Labour Conference, 89th Session, 2001 .....	175
Resolution and conclusions concerning the recurrent discussion on social protection (social security), International Labour Conference, 100th Session, 2011 .....	178
Resolution concerning efforts to make social protection floors a national reality worldwide, International Labour Conference, 101st Session, 2012 .....	187
Resolution and conclusions on employment and social protection in the new demographic context, International Labour Conference, 102nd Session, 2013 .....	188
Resolution on Advancing Social Justice through Decent Work, 2016 ...	192
ILO Centenary Declaration for the Future of Work, International Labour Conference, 108th Session, 2019.....	197
Relevant international human rights instruments .....	201
Universal Declaration of Human Rights, 1948.....	201
International Covenant on Economic, Social and Cultural Rights, 1966	204
Convention on the Elimination of All Forms of Discrimination against Women, 1979 .....	209
Convention on the Rights of the Child, 1989.....	218
Convention on the Rights of Persons with Disabilities, 2006 .....	228
 <b>Annexes</b>	
I. Sustainable Development Goals Relevant to Social Protection ..	247
II. Minimum requirements in ILO social security standards: Overview tables .....	249
III. Table of ratification of ILO up-to-date social security conventions .....	268
IV. Map of ratification of ILO up-to-date social security conventions.	275
V. List of other relevant instruments .....	276
VI. Additional useful references .....	279

## Tables

1.	List of ILO up-to-date social security standards .....	8
2.	Sustainable Development Goals Relevant to Social Protection ..	247
3.	Main requirements: ILO social security standards on health protection .....	249
4.	Main requirements: ILO social security standards on sickness benefits .....	251
5.	Main requirements: ILO social security standards on unemployment protection .....	253
6.	Main requirements: ILO social security standards on income security in old age (old-age pensions) .....	255
7.	Main requirements: ILO social security standards on employment injury protection .....	257
8.	Main requirements: ILO social security standards on family/child benefits .....	260
9.	Main requirements: ILO social security standards on maternity protection .....	261
10.	Main requirements: ILO social security standards on disability benefits .....	263
11.	Main requirements: ILO social security standards on survivors' benefits .....	265
12.	Ratification of ILO up-to-date social security conventions, by region .....	268



## Introduction

This compendium contains a selection of the most relevant international instruments that establish the human right to social security and provide guidance for building comprehensive social security systems <sup>1</sup> at national level. These include the standards and conclusions adopted by the International Labour Organization (hereinafter referred to as ILO) in the field of social security and the main human rights instruments spelling out the right to social security adopted under the auspices of the United Nations.

The compendium is intended to serve as a reference for practitioners, policy-makers and other stakeholders, as well as a guidebook for the general public. Ultimately, it is hoped that it will contribute to a wider knowledge and use of these instruments, thereby strengthening their impact.

Part I describes these instruments and their contents, as well as explaining their purpose and relevance for furthering social protection rights worldwide. Part II reproduces the contents of the above-mentioned instruments. For ease of reference, Annex I presents the sustainable development objectives related to social protection. Annex II contains tables presenting the key requirements set out in ILO social security standards. A table presenting the status of ratifications of ILO social security Conventions is found in Annex III. A world map illustrating the state of ratification of ILO up-to-date social security standards is displayed in Annex IV. Other relevant instruments including regional social security instruments, regional coordination instruments, and other relevant ILO standards covering specific categories of workers are listed in Annex V, while Annex VI provides a list of additional references.

## The international legal framework

Over the years, the standards adopted by the ILO to guide countries in the establishment and maintenance of sound social security systems have played a substantial role in furthering the implementation of the right to social security, as laid down in international human rights instruments. Together, these two sets of instruments, complemented by internationally negotiated policy guidelines, provide a comprehensive framework for the concretization of a rights-based approach to social security in national and regional law and practice.

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<sup>1</sup> This term is used interchangeably with “social protection systems”. The ILO usually uses the term “social security”, with reference to the human right to social security set out in the Universal Declaration on Human Rights, 1948 (Art. 22), the International Covenant on Economic, Social and Cultural Rights, 1966 (Art. 9) and other UN human rights instruments. This term encompasses a broad variety of policy instruments, including social insurance, social assistance, universal benefits and other forms of cash transfers, as well as measures to ensure effective access to health care and other benefits in kind aiming at securing social protection. For more detail, see ILO: *ILO: World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals* (Geneva, 2017), p. 195.

## The right to social security in international human rights instruments

From an international legal perspective, the recognition of the right to social security has been developed through universally negotiated and accepted instruments that establish social security as a basic social right to which every human being is entitled. In this way, the right to social security has been enshrined in several human rights instruments adopted by the United Nations, and is expressly formulated as such in fundamental human rights instruments, namely the Universal Declaration of Human Rights (UDHR)<sup>2</sup> and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>3</sup>

Specifically, Article 22 of the UDHR lays down that:

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

And states in its Article 25 that:

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, invalidity, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

The ICESCR stipulates in its Article 9 that:

[t]he States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

The right to social security is also enshrined in UN legal instruments setting out the rights of specific population groups, such as the *Convention on the Elimination of All Forms of Discrimination Against Women* (1979),<sup>4</sup> the *Convention on the Rights of the Child* (1989),<sup>5</sup> the *Convention on the Elimination of All Forms of Racial Discrimination*, (1965),<sup>6</sup> the *International Convention on the Protection of the Rights of All Migrant Workers and Their Families* (1990),<sup>7</sup> and the *Convention on the Rights of Persons with Disabilities* (2006).<sup>8</sup>

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<sup>2</sup> United Nations: Universal Declaration of Human Rights, General Assembly Resolution 217 A (III), 1948.

<sup>3</sup> United Nations: International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A (XXI), 1966.

<sup>4</sup> Articles 11(1)(e), 11 (2)(b) and 14(2).

<sup>5</sup> Articles 26, 27(1), 27(2) and 27(3).

<sup>6</sup> Article 5(e)(iv).

<sup>7</sup> Articles 27 and 54.

<sup>8</sup> Article 28.

While the UDHR constitutes an unchallenged statement of fundamental human rights, the ICESCR and other specific UN Conventions have the quality of treaties, which create binding obligations upon ratification. As for other rights enshrined in these instruments, States' obligation in the implementation of the right to social security is one of progressive realization, as they undertake, upon ratification, to take steps towards the full realization of this right, to the maximum of their available resources.

The Committee on Economic, Social and Cultural Rights (CESCR), which monitors the implementation of the ICESCR, has progressively developed the content of the right to social security through its examination of country cases and its interpretation of this right in the 2008 General Comment 19.<sup>9</sup> For such purpose, reference is made to the ILO's constitutional documents, as well as to the body of technical social security Conventions and Recommendations adopted by the ILO, notably the Social Security (Minimum Standards) Convention, 1952 (No. 102) and more recently, the Social Protection Floors Recommendation, 2012 (No. 202). Drawing from these instruments, the 2008 General Comment 19 defines the right to social security as encompassing:

the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents. (para. 2)

It further details the constitutive elements of this right, which consist mainly in the following:

- **Availability of the social security system:** A sustainable social security system, and constituting schemes, must be available and in place, established by law and under the responsibility of public authorities, to ensure that benefits are provided for the relevant social risks and contingencies for present and future generations. (para. 11)
- **Comprehensive coverage of social risks and circumstances:** The social security system should provide, in law and in practice, benefits for the nine principal branches of social security, namely: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, survivors and orphans. (paras. 12–21)
- **Accessibility of social security benefits:** All persons must be covered by the system, without discrimination and taking into account specific needs. Qualifying conditions for benefits must be reasonable, proportionate and transparent. Social security contributions and other costs of the system must be affordable for all. Beneficiaries must be able to participate in the administration of the system. Benefits should be

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<sup>9</sup> General Comments are authoritative statements of the CESCR of its interpretation of the rights enshrined in the ICESCR. Adopted by most human rights treaty bodies, they can be used to guide States in the implementation of those rights and to assess compliance with related obligations. It may also be noted that the Optional Protocol to the ICESCR, which entered into force in 2013, widens the competence of the CESCR to receive complaints in case of violations of the rights enshrined in the ICESCR, including the right to social security.

provided in a timely manner and beneficiaries should have physical access to the social security services; the special needs of certain groups of the population should be duly considered to ensure they too have access. (paras. 23–27)

## Relationship with other human rights

As part of the broader family of human rights, the right to social security is to be seen in conjunction with the other rights recognized by the UDHR, the ICESCR and the International Covenant on Civil and Political Rights. All human rights are indeed considered indivisible, interdependent and inalienable. In other words, they should be seen as an inseparable package, with equal status, where the fulfilment of one right depends on the fulfilment of the other. Indeed, there is strong evidence that social protection is both strengthened but other economic, social and cultural rights but also plays a critical enabling role in reinforcing these. In this regard, the CESCR has further recognised that States have an immediate duty to ensure that social security schemes provide minimum essential levels of benefits to all in a manner which enables them to at least acquire “essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education”.<sup>10</sup>

In particular therefore, the right to the enjoyment of the highest attainable standard of physical and mental health, as set out for example at Article 25 of the UDHR and Article 12 of the ICESCR, is inseparable from the right to social security. The same interdependence exists as regards the right to an adequate standard of living, the right to food and water and sanitation, the right to education and housing, labour rights, as well as certain civil and political rights.<sup>11</sup> Such interdependence calls therefore for close coordination across social protection and other economic, social and political policies and legal frameworks.

## Social security for all, at the core of the ILO’s mandate

The promotion of the right to social security has been an important part of the ILO’s mandate since its founding in 1919.<sup>12</sup> From then onwards, the ILO was established as the authority in this field. To this effect, the Preamble of the ILO Constitution states that the Organization’s mandate is to improve conditions of labour through, among others,

the prevention of unemployment, ... the protection of the worker against sickness, disease, and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury.

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<sup>10</sup> General Comment No. 19 (The right to social security (Art. 9 of the Covenant), 4 Feb. 2008, E./C.12/GC/19, para. 59).

<sup>11</sup> For more information on the relationship between the right to social security and other human rights visit the Social Protection and Human Rights Platform: <https://socialprotection-humanrights.org/>.

<sup>12</sup> ILO: Constitution of the International Labour Organisation, 1 April 1919, Preamble and Article 1.

The ILO's mandate was widened in 1944 by the Declaration of Philadelphia, the first international legal instrument to stipulate the right to social security as a right belonging to all, and the first expression of the world community's commitment to the extension of social security to all. The Declaration, which then became part of the ILO Constitution, lays down the "solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve", among others, "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care", as well as "provision for child welfare and maternity protection".<sup>13</sup>

Over 50 years later, in 2001, social security was reaffirmed by the International Labour Conference (ILC) as a fundamental human right, and its extension to all in need was restated as a fundamental part of the ILO's mandate and a challenge that needed to be addressed seriously and urgently by all member States.<sup>14</sup> Consequently, the ILO launched in 2003 the Global Campaign on Social Security and Coverage for All. The ILO Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference in 2008, again reaffirmed the commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda.

In 2009, the International Labour Conference recognized the crucial role of social protection policies in crisis response, and the Global Jobs Pact called for countries to "give consideration, as appropriate, to building adequate social protection for all, drawing on a basic social protection floor".

In June 2011, the ILC adopted a Resolution and Conclusions which set out the strategy of the ILO with regard to addressing the challenge of extending coverage and further developing social security systems.<sup>15</sup> Based on the premise that social security is a human right and a social and economic necessity, the ILC noted that closing coverage gaps was of highest priority for equitable economic growth, social cohesion and decent work for all women and men. It called for the extension of social security coverage through a two-dimensional approach, with a view to building comprehensive social security systems. The Social Protection Floors Recommendation, 2012 (No. 202), adopted by the ILC in June 2012, completed the ILO's social security strategy.

According to the Recommendation, effective national strategies to extend social security, in line with national circumstances, should aim at achieving universal protection of the population by ensuring at least minimum levels of income security and access to essential health care (horizontal dimension), as well as progressively ensuring higher levels of protection guided by up-to-date ILO

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<sup>13</sup> ILO: Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), adopted by the International Labour Conference at its 26th Session, held in Philadelphia, on 10 May 1944, Articles III (f) and (h).

<sup>14</sup> ILO: *Social security: A new consensus, Resolution and Conclusions concerning social security*, International Labour Conference, 89th Session, Geneva, 2001.

<sup>15</sup> ILO: *Conclusions concerning the recurrent discussion on social protection (social security)*, International Labour Conference, 100th Session, Geneva, 2011, in *Record of Proceedings* (Geneva, 2011), No. 24: Report of the Committee for the Recurrent Discussion on Social Protection (Geneva), para. 31.

social security standards (vertical dimension). In line with national priorities, resources and circumstances, such two-dimensional strategies should aim at building and maintaining comprehensive and adequate social security systems.<sup>16</sup>

As the ILO century, the ILC adopted a landmark Centenary Declaration in June 2019 with the purpose of providing further guidance to the ILO and its constituents in respect of the challenges and opportunities for the future of work, ranging from technology to climate change, from demographic shifts to the need for new skills. Like the Declaration of Philadelphia, the new Declaration is an authoritative statement of the entire ILO membership which takes stock of the current challenges and context and reaffirms constituents attach to core values and principles. As such, it will serve to guide ILO's and its constituent's action in the future.

The Centenary Declaration stresses the need for the ILO to carry forward “with unrelenting vigour its constitutional mandate for social justice by further developing its human-centred approach to the future of work” (para. I (D)).

Pointing to the role of social protection in shaping a fair, inclusive and secure future of work and , it calls on the ILO to direct its efforts in particular “to developing and enhancing social protection systems, which are adequate, sustainable and adapted to developments in the world of work” (para. II A (xv)) recognising, as such, its function for achieving a just and sustainable future. It further calls upon all Members, to strengthen the capacities of all people to benefit from the opportunities of a changing world of work, inter alia, through “universal access to comprehensive and sustainable social protection” (para. III (A) (iii)).<sup>17</sup>

### **ILO social security standards: A reference framework for building universal social protection systems**

In pursuit of its mandate in the field of social security and in its capacity as the responsible UN agency, the ILO has over the years adopted a range of standards laying down concrete obligations and guidelines for States to implement the right to social security by developing and maintaining comprehensive and sustainable social protection systems. ILO social security standards take the form of either Conventions or Recommendations and lay down internationally agreed standards in the field of social security. Conventions are international treaties, designed with a view to being ratified and thereby creating legal obligations for States. While Recommendations are not open for ratification, they provide general or technical guidelines and often supplement corresponding Conventions.

These Conventions and Recommendations are elaborated and adopted by the Organization's tripartite constituents: governments, and employers and workers

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<sup>16</sup> For a more detailed account see: ILO: Social security for all: Building social protection floors and comprehensive social security systems. The strategy of the International Labour Organization (Geneva, 2012).

<sup>17</sup> ILO Centenary Declaration for the Future of Work International Labour Conference, 108<sup>th</sup> Session, Geneva, 2019.

organizations representing all ILO member States at the International Labour Conference. They are the main references guiding ILO policy and technical advice in the field of social protection.

With a total of 31 Conventions adopted over the years, the ILO is the international institution producing the largest number of binding instruments in this field. For this reason, ILO social security standards, and notably the landmark Convention No. 102, have come to be recognized globally as key references for the design of rights-based, sound and sustainable social protection schemes and systems. Indeed, these are primarily tools for governments which, in consultation with employers and workers, are seeking to draft and implement social security law, establish administrative and financial governance frameworks, and develop social protection policies. More specifically, these standards serve as key references for:

- the elaboration of national social security extension strategies;
- the development and maintenance of comprehensive national social security systems;
- the design and parametric adjustments of social security schemes;
- the establishment and implementation of effective recourse, enforcement and compliance mechanisms;
- the good governance of social security and improvement of administrative and financial structures;
- the realization of international and regional obligations, and the operationalization of Decent Work Country Programmes; and
- working towards the achievement of Sustainable Development Goals, particularly goals 1, 3, 5, 8, 10 and 16.

### **Three generations of social security standards**

Historically and conceptually, social security standards can be classified into three different groups or generations of standards, according to the approach of social security that they embodied at the time of their adoption.

The first generation of standards corresponds to the instruments adopted since the creation of the ILO until the end of the Second World War. These standards are aimed at establishing compulsory social insurance systems for specific branches and at covering the principal sectors of activity and the main categories of workers.

The second generation of standards aimed at unifying and coordinating the various social protection schemes within a single social security system covering all contingencies and extending social security coverage to all workers. This new conception is reflected in the flagship Convention No. 102.

The third generation of standards corresponds to the instruments adopted after Convention No. 102. Modelled on the latter, they offer a higher level of protection in terms of population covered and benefit levels, and revise first-generation standards.

The adoption of Recommendation No. 202 in 2012 marks the beginning of a new phase in ILO social security standard-setting, which could be referred to as “universal social security coverage and comprehensive systems”. Recommendation No. 202 envisages the development of such systems extending coverage, progressively, to all members of society, with a view to realizing the human right to social security.

### **A unique and flexible set of tools to improve the outcomes of social protection systems**

Today, eight Conventions and nine Recommendations set up-to-date international standards in the field of social protection. They are designed to ensure the provision of adequate income and health protection to the population, addressing the lack or loss of earnings and the need to access medical care and health services resulting from the occurrence of certain life risks or circumstances (see table 1).

**Table 1. List of ILO up-to-date social security standards**

- Income Security Recommendation, 1944 (No. 67)
- Medical Care Recommendation, 1944 (No. 69)
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Employment Injury Benefits Convention, 1964 (No. 121), and Recommendation, 1964 (No. 121)
- Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and Recommendation, 1967 (No. 131)
- Medical Care and Sickness Benefits Convention, 1969 (No. 130), and Recommendation, 1969 (No. 134)
- Maintenance of Social Security Rights Convention, 1982 (No. 157), and Recommendation, 1983 (No. 167)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and Recommendation, 1988 (No. 176)
- Maternity Protection Convention, 2000 (No. 183), and Recommendation, 2000 (No. 191)
- Social Protection Floors Recommendation, 2012 (No. 202)

ILO social security standards are unique: they establish standards that States set for themselves. These standards build on good practices and innovative ways of providing enhanced and extended social protection in countries from all regions of the world. At the same time, they are built on the notion that there is no single perfect model for social security; on the contrary, it is for each society to develop the best means of guaranteeing the protection required. Accordingly, they offer a range of options and flexible routes for their application, all directed at ensuring an overall level of protection which best responds to each country's needs. This can be achieved through a combination of contributory and non-

contributory benefits, general and occupational schemes, compulsory and voluntary insurance, and different methods for the administration of benefits.

Furthermore, the ILO standards establish qualitative and quantitative benchmarks which together determine the minimum standards of social security protection to be provided by social security schemes when life risks or circumstances occur, with regard to:

- definition of the contingency (what risk or life circumstance must be covered?)
- persons protected (who must be covered?)
- type and level of benefits (what should be provided?)
- entitlement conditions, including qualifying period (what should a person do to get the right to a benefit?)
- duration of benefit and waiting period (how long must the benefit be paid/provided for?)

In addition, they set out common rules of collective organization, financing and management of social security, as well as principles for the good governance of national systems. These include:

- the general responsibility of the State for the due provision of benefits and proper administration of social security systems;
- solidarity, collective financing and risk-pooling;
- participatory management of social security schemes;
- guarantee of defined benefits;
- adjustment of pensions in payment to maintain the purchasing power of beneficiaries; and
- the right to complain and appeal.

In this way, the ILO standards provide concrete guidance for countries to move progressively towards the realization of the right to social security and the effective implementation of a rights-based approach to social protection. As mentioned earlier, they have served as key references in the interpretation of the right to social security under human rights international instruments by UN treaty bodies and are frequently used by these bodies to measure States' progress and compliance with their obligations in this respect.

### **A worldwide reference framework to guide the development of social security systems**

Over the years, ILO social security standards, and in particular Convention No. 102, have had and continue to have substantial influence on the development of social security and the extension of coverage in various regions of the world. As noted by ILO constituents, more than 50 years after its adoption, Convention No. 102 continues to serve as a benchmark and reference in the gradual development of comprehensive social security coverage at the national level. In fact, "many developing countries, inspired by the Convention, have

embarked upon the road to social security".<sup>18</sup> Moreover, as noted by the ILC, "several member States currently implementing successful and innovative social security extension policies have recently ratified Convention No. 102 and others have indicated their intention to do so".<sup>19</sup>

The influence of ILO social security standards is also felt in regional and subregional treaties. For instance, in Europe, Convention No. 102 has provided the blueprint for the *European Code of Social Security* (1964) and is established as the standard to meet by the *European Social Charter* (1961). In Africa, it has notably served for the elaboration of the *Code on Social Security of the Southern African Development Community* (2008). In the Americas, it is reflected in the *CARICOM Agreement on Social Security* (1996), and the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (Protocol of San Salvador, 1988).

### Main ILO social security standards: Key features

The most prominent standards, Convention No. 102 and Recommendation No. 202), are complemented by other Conventions and Recommendations that set higher standards in respect of the different social security branches, or spell out the social security rights of migrant workers. The social security rights of other categories of workers such as fishers, domestic workers and maritime labourers are further specified in other instruments applying to these specific sectors.

### Social Security (Minimum Standards) Convention, 1952 (No. 102)

The long-standing Convention No. 102<sup>20</sup> is a global reference in social security. As a leading standard of the ILO in this field, it is deemed to embody an internationally accepted definition of the very principle of social security. It regroups nine social security contingencies (medical care, sickness, unemployment, old age, employment injury, family responsibilities, maternity, invalidity and survivorship) and sets out in a single, comprehensive and legally binding instrument the minimum parameters that States should commit to

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<sup>18</sup> ILO: *Social security and the rule of law*, Report III (1B), International Labour Conference, 100th Session, Geneva, 2011, para. 81.

<sup>19</sup> ILO: *Social protection floors for social justice and a fair globalization*, Report IV (1), International Labour Conference, 101st Session, Geneva, 2012, para. 36.

<sup>20</sup> Convention No. 102 was the subject of a General Survey of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in the context of the 2008 Declaration on Social Justice for a Fair Globalization in 2011. A General Survey is an in-depth report based on the national law and practice of ILO member States on certain chosen Conventions and/or Recommendations which examines the impact of the standards and identifies means of overcoming any difficulties in their application. Specifically, the General Survey "Social Security and the rule of Law" looks at the challenges faced by social security and elaborates on the dimensions of extension, enforcement and due process as a means to strengthen legality in social security and concludes by exploring ways to make up the deficit in social security regulation. ILO: *Social security and the rule of law*, Report III (1B), International Labour Conference, 100th Session, Geneva, 2011:

([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_152602.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_152602.pdf))

meeting for each contingency. It further places them under principles for good and sustainable governance. These standards are to be applied in law and in practice for the provision of adequate benefits to a substantial part of the population.

Convention No. 102 contains a number of clauses which allow member States a certain degree of flexibility in reaching its objectives. This is done first by 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 (Article 2). In addition, the scope of personal coverage under Convention No. 102 provides alternatives that take into account differences in the employment structure and in the socio-economic situation of member States, as well as between the different categories of residents within a State. Hence, for each branch accepted the Convention gives member States the possibility to cover only a certain proportion of their population. Furthermore, in the implementation of social security branches it allows member States whose economy and medical facilities are insufficiently developed to make use of temporary exceptions relating, for example, to the proportion of people covered (Article 3). The Convention also provides for flexibility as to the type of schemes member States may establish for implementation of the Convention and to reach its objectives. Such objectives can be reached through non-contributory (universal or means-tested), or contributory social insurance schemes (with earnings-related or flat-rate components or both), or a combination of both.

### **Social Protection Floors Recommendation, 2012 (No. 202)**

As for Recommendation No. 202,<sup>21</sup> it provides guidance on closing social security gaps and achieving universal coverage through the establishment and maintenance of comprehensive social security systems. It calls upon States to achieve universal coverage with at least minimum levels of protection through the implementation of social protection floors as a matter of priority; and to progressively ensure higher levels of protection. National social protection floors should comprise basic social security guarantees that ensure, as a minimum, effective access to essential health care and basic income security at a level that allows people to live in dignity throughout the life cycle. These should include at least:

- access to essential health care, including maternity care;

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<sup>21</sup> Worldwide state of the implementation of Recommendation No. 202 was the subject of a General Survey of the CEACR. The General Survey highlights good practices and progress accomplished by countries in giving effect to the Recommendation, analyses the difficulties indicated by governments and social partners as impeding or delaying its implementation, identifies means of overcoming these obstacles and formulates practical recommendations for a better application of the Recommendation by ILO member States. In so doing, it provides relevant guidance for all stakeholders to enhance social protection, achieve universal social protection and accelerating progress towards the realization of the SDGs by 2030. General Survey concerning the Social Protection Floors Recommendation, 2012 (No. 202): Universal social protection for human dignity, social justice and sustainable development ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_673680.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_673680.pdf))

- basic income security for children;
- basic income security for persons of working age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and
- basic income security for older persons.

Complementing existing standards, Recommendation No. 202 sets forth an integrated and coherent approach to social protection across the life cycle, underscores the principle of universality of protection through nationally-defined social protection floors, and embodies a commitment to their progressive realization in terms of benefits and people covered. It thereby aims at ensuring that all members of society enjoy at least a basic level of social security throughout their lives, ensuring their health and dignity. Poverty, vulnerability and social exclusion are established as priority areas of attention, with the clear objective of reducing poverty as soon as possible. The Recommendation further envisages a systemic approach to social security that should be reflected in national social security extension strategies seeking to close gaps in basic protection and raise levels of protection, with explicit linkages to more advanced ILO social security standards and notably Convention No. 102, which should serve as a reference for such purposes. The Recommendation calls for systems that are country-led, are aligned to national circumstances, are reviewed in the light of population needs, and include the participation of all stakeholders. In an innovative way, it contains guidance on monitoring to help countries assess their progress in moving towards enhanced protection and improving the performance of national social security systems towards the objective of building comprehensive systems covering the entire population throughout the life cycle by way of an adequate set of benefits and services.

Other social security standards and provisions include the following: <sup>22</sup>

- The **Equality of Treatment (Social Security) Convention, 1962 (No. 118)**, addresses the issue of the social security of migrant workers in a global manner. It provides that, for each social security branch accepted under the Convention, a ratifying State undertakes to grant equality of treatment to nationals of other ratifying States (and their dependants) with its own nationals (including refugees and stateless persons, if specifically accepted) within its territory (principle of reciprocity). Convention No. 118 further lays down the principle of the provision of benefits abroad and the need to endeavour to participate in schemes for the maintenance of acquired rights, and rights in the course of acquisition under the legislation of the nationals of the States for which the Convention is also in force.
- The **Maintenance of Social Security Rights Convention, 1982 (No. 157)**, and its accompanying **Recommendation, 1983 (No. 167)**, specifically address the issue of the maintenance of social security rights of migrant workers and complement Convention No. 118, focusing on equality of treatment and exportability. Unlike the latter, however, Convention No. 157 applies to all branches regardless of the type of scheme: general and special, contributory and non-contributory, as well

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<sup>22</sup> For a more detailed overview of main requirements in ILO social security standards see the tables in Annex II.

as schemes consisting of obligations imposed on employers by legislation. The objective of Convention No. 157 is to promote a flexible and broad form of coordination between national security schemes, in particular through the conclusion of bilateral or multilateral social security agreements, establishing a system based on the principle of the maintenance of acquired rights and rights in the course of acquisition. Recommendation No. 167 proposes model provisions for the conclusion of bilateral or multilateral social security agreements regarding all contingencies, and provides rules on maintaining social security rights and exporting benefits, as well as a model agreement for the coordination of bilateral or multilateral social security instruments.

- The **Employment Injury Benefits Convention, 1964 (No. 121)**, addresses protection in case of a morbid condition, incapacity for work, invalidity or a loss of faculty due to an industrial accident or a prescribed occupational disease, and the loss of support as a result of the death of the breadwinner following employment injury. Defining the notion of “industrial accident”, including the conditions under which this notion applies to commuting accidents, is the responsibility of ratifying States. Convention No. 121 indicates the cases in which accidents should be considered by national legislation as industrial accidents and under which conditions the occupational origin of the disease should be presumed. The national list of employment-related diseases must comprise at least the diseases enumerated in Schedule I to the Convention. Convention No. 121 envisages that all employees, including apprentices in the public and private sectors, and in cooperatives, are to be protected. The Convention further lays down three types of benefits: medical care, cash benefits in the event of incapacity for work and loss of earning capacity (invalidity), and cash benefits in the event of the death of the breadwinner. Its accompanying **Recommendation No. 121** essentially recommends the extension of the scope of persons protected in case of employment injury, and higher levels of cash benefits.
- The **Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128)**, regroups all three long-term benefits (i.e. invalidity, old-age and survivors’ benefits) branches into one instrument and extends coverage to all employees, including apprentices, or not less than 75 per cent of the whole economically active population, or all residents whose means during the contingency do not exceed certain limits. It further sets the periodical payment rate for invalidity benefit to at least 50 per cent of the reference wage and envisages the adoption of measures for rehabilitation services. In the case of old-age and survivors’ benefit, the minimum amount should correspond to at least 45 per cent of the reference wage. Its accompanying **Recommendation No. 131** broadens the definition of the contingencies that should be covered under national schemes and recommends that higher benefits be paid, upon the fulfilment of less stringent qualifying conditions.
- The **Medical Care and Sickness Benefits Convention, 1969 (No. 130)**, covers both medical care benefits and cash sickness benefit, reflecting the trend to establish comprehensive health insurance systems. All employees, including apprentices, or at least 75 per cent of the

economically active population, or all residents whose means do not exceed certain limits should be covered for both contingencies. In relation to medical care, wives and children of employees should also be covered. Convention No. 130 further extends the medical care required under Convention No. 102 to dental care and medical rehabilitation, including the supply, maintenance and renewal of prosthetic and orthopaedic appliances. It also provides for entitlement to benefit throughout the contingency and restricts the possibility of limiting the duration of sickness benefits; a limitation corresponding to 26 weeks is authorized only where the beneficiary ceases to belong to the categories of persons protected and if the sickness started while the beneficiary still belonged to such categories. Its accompanying **Recommendation No. 134** extends the sickness contingency, the scope of personal coverage and the type of medical benefits that should be provided. It also recommends the provision of medical benefits without a qualifying period and that of sickness benefit throughout the whole duration of the contingency.

- The main aim of the **Employment Promotion and Protection Against Unemployment Convention, 1988 (No. 168)**, is twofold: the protection of unemployed persons through the provision of benefits in the form of periodical payments, and the promotion of employment. It therefore recognizes the value of linking social security to broader social and economic policies directed at one priority goal: the promotion of full, productive and freely chosen employment. In addition to providing benefits in case of unemployment at a minimum replacement rate of 50 per cent of the reference wage, ratifying States are therefore also called upon to adopt appropriate steps to coordinate their system of protection against unemployment and their employment policy. The system of protection against unemployment should therefore be such as to encourage employers in offering, and workers in seeking, productive employment. Persons protected must comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices, or all residents whose resources during the contingencies do not exceed prescribed limits. **Its accompanying Recommendation No. 176** provides guidance on how to assess the suitability of employment for those seeking it, taking into account the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their unemployment and the state of the labour market. It further recommends the extension of the scope of the contingency covered, that of the personal coverage, and of the benefit duration.
- Under the **Maternity Protection Convention, 2000 (No. 183)**, all employed women, including those in atypical forms of dependent work, should be covered for pregnancy, childbirth and their consequences. In particular, persons protected should be entitled to maternity benefits for a minimum period of 14 weeks (including six weeks of compulsory leave after childbirth) at not less than two-thirds of their previous earnings. The medical benefits provided to protected persons must include prenatal, childbirth and post-natal care. Convention No. 183 also lays down the right to work breaks for breastfeeding, as well as provisions relating to health

protection, employment protection and non-discrimination. Its accompanying **Recommendation No. 191** provides for a higher benefit and a longer duration of paid maternity leave.

- The **Income Security Recommendation, 1944 (No. 67)**, and the **Medical Care Recommendation, 1944 (No. 69)**, are at the origin of the development of social security in ILO instruments and can be considered the blueprint for comprehensive social security systems. Together, they establish a comprehensive system of income security and medical care protection for each of the nine classical branches of social security in addition to general neediness (called “general want” in 1944), with the objective of relieving want and preventing destitution. Recommendations Nos. 67 and 69 are grounded on the guiding principle of universal coverage, following which income security and medical care services should be extended to the population as a whole through a combination of social insurance and social assistance.

Completing this framework, the ILO has adopted a number of Conventions and Recommendations addressing particular matters encountered in the world of work and making provision for the protection of specific categories of workers or sectors, including social security provisions.<sup>23</sup> For example, the **Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)**, recognizes the lack of protection of workers in the informal economy, and provides guidance for improving their protection and facilitating transitions to the formal economy. It also includes guidance on the extension of social security coverage to workers in the informal economy, including through social protection floors, and on the role of such extension of coverage in facilitating transitions to the formal economy. Similarly, closing the gaps in social protection coverage is one of the areas that the **Domestic Workers Convention, 2011 (No. 189)**, and its accompanying **Recommendation No. 201**, addresses, calling on members to take appropriate measures so as, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally. The **Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)**, recognizes the vital role that social protection plays in preventing crises, enabling recovery and building resilience and provides guidance for countries in this regard.

### The importance of ratifying ILO social security Conventions

As mentioned earlier, Conventions are open to ratification, a formal procedure through which a State, through its Government, accepts to be bound by the Convention provisions. The act of ratification, signed by the Government and deposited with the Director-General of the ILO, is in itself a declaration to such effect. Ratifying a Convention thus creates a legal obligation for the State to apply its provisions in law and in practice, and to report at regular intervals to the ILO supervisory bodies on how this is done.

There are currently eight up-to-date Conventions open for ratification (listed in box 1). Some of these, such as Conventions Nos. 102 and 128, contain flexibility

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<sup>23</sup> See Annex V.

clauses which allow a State to ratify by accepting only parts of it. These parts should be specified in the act of ratification. Other Conventions, such as No. 183, require particular information to be specified in the act of ratification. These elements are crucial for the ratification to become effective and registered. The ratification takes effect one year following the date of registration of the act of ratification with the ILO.

In recent years, the ratification of Convention No. 102 has proven of particular importance for countries undergoing political change or comprehensive labour market reforms, or experiencing crises, by providing legal incentives to maintain some of the most crucial guarantees of the system.<sup>24</sup> In others, ratification has served as a catalyst for improvement of the social security system by guiding parametric adjustments, the extension of coverage and, in some cases, a systemic reform. The most recent ratifications include Argentina (2016), Benin (2019), Chad (2015), Cabo Verde (2019), Dominican Republic (2016), Jordan (2014), Morocco (2019), Russian Federation (2019), St. Vincent and the Grenadines (2015) and Ukraine (2016).<sup>25</sup>

The advantages for States in ratifying ILO social security Conventions can be summarized as follows:

- **A path to decent work and poverty reduction and other global goals.** Once ratified and applied in law and practice, ILO social security Conventions can contribute to fostering decent working conditions and reducing poverty by providing for guaranteed minimum levels of benefits. In particular, the ratification and implementation of these standards also contributes to attaining the 2030 Agenda for Sustainable Development, namely sustainable development goals target 1.3 on building social protection systems and measures for all, including floors, with a view to achieving universal social protection. It is also instrumental in achieving other SDGs related to the eradication of poverty, good health and well-being (namely through universal health coverage), gender equality, decent work and in reducing inequalities.
- **A concrete and detailed guiding framework for operationalizing constitutional rights and promoting human rights meeting international and regional obligations.** Ratifying and applying ILO social security Conventions in law and in practice demonstrates a commitment to realizing the human right to social security, as set out in the Universal Declaration of Human Rights, 1948, the International Covenant of Economic, Social and Cultural Rights, 1966, and other human rights instruments. In addition, ratification can provide the opportunity for many countries to further develop their social security system and to extend legal and effective coverage, thereby giving effect to constitutional provisions which lay down the right to social security or social protection.
- **An international legal framework for fair and stable globalization and for ensuring a level playing field.** Experience shows that ILO social

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<sup>24</sup> For a more detailed account of the role of the expansion of social protection coverage in crisis recovery, see ILO: *World Social Protection Report 2014/15*, op. cit.

<sup>25</sup> Refer to table with ratifications in Annex III.

security Conventions, once ratified, can serve as a means of preventing the levelling down of national social security systems. The minimum requirements and benchmarks they set out contribute to the creation of an equitable global level playing field for social protection. By ratifying these standards, a country thus contributes to preventing the downgrading of the application of standards and unfair competition by a “race to the bottom” leading to lower protection, below the minimum levels set out in these Conventions.

- **Tools for policy and legal action, and a road map for the strengthening of national social protection systems.** ILO social security standards envisage the progressive development of comprehensive and integrated national social protection systems that seek universal social protection based on the principles of social solidarity and collective financing. This normative framework can thus serve as a road map for the development and reform of social security by providing guidelines and targets for progressively building an integrated, wide-ranging and sustainable system that leaves no one behind. By defining the fundamental elements for social protection systems, Convention No. 102 and Recommendation No. 202, in particular, provide guidance for the establishment, maintenance and reform of social protection systems, ensuring that they can function effectively, equitably and sustainably based on clearly defined rights and obligations. Advanced standards provide guidance for progressively ensuring higher levels of protection.
- **A guarantee that minimum levels of protection will be maintained in times of crisis.** The social impact of financial and economic crises on workers and their families can be mitigated by social security through its automatic income replacement functions and measures. By ratifying ILO social security Conventions, a country undertakes to implement minimum social security standards through a legal framework; this requires the maintenance at all times of the minimum standards they set out. Conventions, once ratified, can therefore act as powerful tools for the preservation of social security guarantees and entitlements at the national level – and thereby, the preservation of decent standards of living and health. Ratification can therefore prevent countries from backsliding, that is, from losing what has already been achieved, and can mitigate the long-term social consequences of crises.
- **Tools for the improvement of social security governance, administration and services and increased confidence in the system.** ILO social security Conventions lay down basic principles for the sound governance and proper administration of social security (e.g. governmental responsibility in securing the necessary financing for the benefits, at least at the levels stipulated by the Convention; periodical actuarial review of contributions and benefit schedule; and tripartite representation in administration). These principles, when taking a legal form, provide a solid basis for the establishment or reform of social security institutions, and increase these institutions’ accountability. This, in turn, increases public acceptance and perception of their legitimacy and boosts “contribution compliance” and morale. A commitment to ILO social security Conventions and to these principles, expressed by the act of

ratification, translates into a commitment to ensure the provision of regular and sustainable benefits and the sound governance of institutions. This contributes greatly to enhancing insured persons' confidence in the social security system, in the national social security administration and in the political system of a country in general. In times of reform, ratification can give a particular strong signal to society and social partners of the State's commitment to comply with minimum social security standards, irrespective of the type of scheme chosen. A given Convention can thus facilitate the social dialogue process by becoming an integral component (in terms of the standards, benchmarks and principles) of social security reform.

### **ILO Social Security Standards Toolkit: Learn, Ratify and Apply**

A Toolkit was developed with the aim of raising awareness about ILO social security standards and promoting their ratification. By bringing together information and resources on these standards, the toolkit further serves to increase their impact and application in national contexts. The toolkit provides very practical and useful insights as to the ratification procedure, model instruments of ratification, as well as interactive information on the relevance and key provisions of these standards.

Consult the toolkit: <https://www.social-protection.org/gimi/Standards.action?lang=EN>

## **Concluding remarks**

The international social security legal framework described above contains a wealth of references for countries that wish to move forward with the implementation of the right to social security and the establishment of comprehensive, sustainable and adequate social security systems. From general orientation to technical requirements, the provisions contained in the instruments that constitute this framework, and their interpretation by the respective supervisory bodies, can play a fundamental role in guiding the development of sound legal frameworks enabling all people to enjoy their rights.

By securing persons' enjoyment of their social security rights, States will also promote human development, political stability and inclusive growth, and in this way reduce and prevent poverty, redress inequalities and encourage the fair redistribution of economic wealth in line with the Sustainable Development Goals (SDGs).<sup>26</sup> In fact, social protection occupies a central role in the 2030 Agenda for Sustainable Development, cutting across several SDGs and emphasizing the multidimensional nature of social protection policies, which

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<sup>26</sup> ILO: World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals (Geneva, 2017); see also M. Sepulveda, C. Nyst: The Human Rights Approach to Social Protection. Ministry of Foreign Affairs of Finland, 2012.

have an important “bridging function” (see Annex I).<sup>27</sup> Most prominently, SDG 1 recognizes the critical contribution of social protection systems, including social protection floors, in reducing and preventing poverty, in a specific target (1.3): “Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and vulnerable”. This provides a bridge to the other goals, which explicitly or implicitly relate to social protection, including goals on, health (particularly target 3.8), gender equality (particularly target 5.4), decent work and economic growth (particularly target 8.5), reduced inequalities (particularly target 10.4), and peace, justice and strong institutions (particularly targets 16.3 and 16.6). This is why the strengthening of social protection systems plays such an essential role in achieving the SDGs. It is hoped that this compendium, by facilitating access to the fundamental tools it contains, will contribute to accelerate progress towards the endeavour of implementing comprehensive and adequate social protection systems, based on worldwide recognized principles and giving effect to the right of everyone to social security.

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<sup>27</sup> M. Kaltenborn: “Global social protection. New impetus from the 2030 Agenda for Sustainable Development”, in *Global Governance Spotlight* (2015), No. 7.



## ILO Conventions

### C102 – Social Security (Minimum Standards) Convention, 1952

#### Preamble

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 Thirty-fifth Session on 4 June 1952, and

Having decided upon the adoption of certain proposals with regard to minimum standards of social security, which are included in 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-eighth day of June of the year one thousand nine hundred and fifty-two the following Convention, which may be cited as the Social Security (Minimum Standards) Convention, 1952:

#### PART I. GENERAL PROVISIONS

##### Article 1

1. In this Convention:
  - (a) the term **prescribed** means determined by or in virtue of national laws or regulations;
  - (b) the term **residence** means ordinary residence in the territory of the Member and the term **resident** means a person ordinarily resident in the territory of the Member;
  - (c) the term **wife** means a wife who is maintained by her husband;
  - (d) the term **widow** means a woman who was maintained by her husband at the time of his death;
  - (e) the term **child** means a child under school-leaving age or under 15 years of age, as may be prescribed;
  - (f) the term **qualifying period** means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed.
2. In Articles 10, 34 and 49 the term **benefit** means either direct benefit in the form of care or indirect benefit consisting of a reimbursement of the expenses borne by the person concerned.

##### Article 2

Each Member for which this Convention is in force:

- (a) shall comply with:
  - (i) Part I;
  - (ii) at least three of Parts II, III, IV, V, VI, VII, VIII, IX and X, including at least one of Parts IV, V, VI, IX and X;
  - (iii) the relevant provisions of Parts XI, XII and XIII; and
  - (iv) Part XIV; and
- (b) shall specify in its ratification in respect of which of Parts II to X it accepts the obligations of the Convention.

##### Article 3

1. A Member whose economy and medical facilities are insufficiently developed may, if and for so long as the competent authority considers necessary, avail itself, by a declaration appended to its ratification, of the temporary exceptions provided for in the following Articles: 9 (d) ; 12 (2); 15 (d); 18 (2); 21 (c); 27 (d) ; 33 (b); 34 (3); 41 (d); 48 (c); 55 (d); and 61 (d).

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement, in respect of each exception of which it avails itself:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

##### Article 4

1. 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 Parts II to X not already specified in its ratification.

2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

**Article 5**

Where, for the purpose of compliance with any of the Parts II to X of this Convention which are to be covered by its ratification, a Member is required to protect prescribed classes of persons constituting not less than a specified percentage of employees or residents, the Member shall satisfy itself, before undertaking to comply with any such Part, that the relevant percentage is attained.

**Article 6**

For the purpose of compliance with Parts II, III, IV, V, VIII (in so far as it relates to medical care), IX or X of this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by national laws or regulations for the persons to be protected:

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
- (b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.

**PART II. MEDICAL CARE**

**Article 7**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

**Article 8**

The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

**Article 9**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees, and also their wives and children; or
- (b) prescribed classes of economically active population, constituting not less than 20 per cent. of all residents, and also their wives and children; or
- (c) prescribed classes of residents, constituting not less than 50 per cent. of all residents; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than

50 per cent. of all employees in industrial workplaces employing 20 persons or more, and also their wives and children.

**Article 10**

1. The benefit shall include at least:

- (a) in case of a morbid condition:
  - (i) general practitioner care, including domiciliary visiting;
  - (ii) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
  - (iii) the essential pharmaceutical supplies as prescribed by medical or other qualified practitioners; and
  - (iv) hospitalisation where necessary; and
- (b) in case of pregnancy and confinement and their consequences:
  - (i) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
  - (ii) hospitalisation where necessary.

2. The beneficiary or his breadwinner may be required to share in the cost of the medical care the beneficiary receives in respect of a morbid condition; the rules concerning such cost-sharing shall be so designed as to avoid hardship.

3. The benefit provided in accordance with this Article shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

4. The institutions or Government departments administering the benefit shall, by such means as may be deemed appropriate, encourage the persons protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

**Article 11**

The benefit specified in Article 10 shall, in a contingency covered, be secured at least to a person protected who has completed, or whose breadwinner has completed, such qualifying period as may be considered necessary to preclude abuse.

**Article 12**

1. The benefit specified in Article 10 shall be granted throughout the contingency covered, except that, in case of a morbid condition, its duration may be limited to 26 weeks in each case, but benefit shall not be suspended while a sickness benefit continues to be paid, and provision shall be made to enable the limit to

be extended for prescribed diseases recognised as entailing prolonged care.

2. Where a declaration made in virtue of Article 3 is in force, the duration of the benefit may be limited to 13 weeks in each case.

### **PART III. SICKNESS BENEFIT**

#### **Article 13**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

#### **Article 14**

The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

#### **Article 15**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

#### **Article 16**

1. Where classes of employees or classes of the economically active population are protected, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a periodical payment calculated in such a manner as to comply with the requirements of Article 67.

#### **Article 17**

The benefit specified in Article 16 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

#### **Article 18**

1. The benefit specified in Article 16 shall be granted throughout the contingency, except that the benefit may be limited to 26 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.

2. Where a declaration made in virtue of Article 3. is in force, the duration of the benefit may be limited:

- (a) to such period that the total number of days for which the sickness benefit is granted in any year is not less than ten times the average number of persons protected in that year; or
- (b) to 13 weeks in each case of sickness, in which event it need not be paid for the first three days of suspension of earnings.

### **PART IV. UNEMPLOYMENT BENEFIT**

#### **Article 19**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

#### **Article 20**

The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

#### **Article 21**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
- (b) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (c) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

#### **Article 22**

1. Where classes of employees are protected, the benefit shall be a periodical payment calculated in such manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.

2. Where all residents whose means during the contingency do not exceed prescribed limits are protected, the benefit shall be a

periodical payment calculated in such a manner as to comply with the requirements of Article 67.

**Article 23**

The benefit specified in Article 22 shall, in a contingency covered, be secured at least to a person protected who has completed such qualifying period as may be considered necessary to preclude abuse.

**Article 24**

1. The benefit specified in Article 22 shall be granted throughout the contingency, except that its duration may be limited:

- (a) where classes of employees are protected, to 13 weeks within a period of 12 months, or
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, to 26 weeks within a period of 12 months.

2. Where national laws or regulations provide that the duration of the benefit shall vary with the length of the contribution period and/or the benefit previously received within a prescribed period, the provisions of subparagraph (a) of paragraph 1 shall be deemed to be fulfilled if the average duration of benefit is at least 13 weeks within a period of 12 months.

3. The benefit need not be paid for a waiting period of the first seven days in each case of suspension of earnings, counting days of unemployment before and after temporary employment lasting not more than a prescribed period as part of the same case of suspension of earnings.

4. In the case of seasonal workers the duration of the benefit and the waiting period may be adapted to their conditions of employment.

**PART V. OLD-AGE BENEFIT**

**Article 25**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

**Article 26**

- 1. The contingency covered shall be survival beyond a prescribed age.
- 2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

**Article 27**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

**Article 28**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

**Article 29**

1. The benefit specified in Article 28 shall, in a contingency covered, be secured at least:

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment but is less than 30 years of contribution or employment; if such qualifying period exceeds 15 years, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. Where the benefit referred to in paragraphs 1, 3 or 4 of this Article is conditional upon a minimum period of contribution or employment, a reduced benefit shall be payable under prescribed conditions to a person protected who, by reason only of his advanced age when the provisions concerned in the application of this Part come into force, has not satisfied the conditions prescribed in accordance with paragraph 2 of this Article, unless a benefit in conformity with the provisions of paragraphs 1, 3 or 4 of this Article is secured to such person at an age higher than the normal age.

**Article 30**

The benefits specified in Articles 28 and 29 shall be granted throughout the contingency.

**PART VI. EMPLOYMENT  
INJURY BENEFIT**

**Article 31**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

**Article 32**

The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

**Article 33**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees, and, for benefit in respect of death of the breadwinner, also their wives and children; or
- (b) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and, for benefit in respect of death of the breadwinner, also their wives and children.

**Article 34**

1. In respect of a morbid condition, the benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.

2. The medical care shall comprise:

- (a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting;
- (b) dental care;
- (c) nursing care at home or in hospital or other medical institutions;

- (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
  - (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances, kept in repair, and eyeglasses; and
  - (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner.
3. Where a declaration made in virtue of Article 3 is in force, the medical care shall include at least:
- (a) general practitioner care, including domiciliary visiting;
  - (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
  - (c) the essential pharmaceutical supplies as prescribed by a medical or other qualified practitioner; and
  - (d) hospitalisation where necessary.
4. The medical care provided in accordance with the preceding paragraphs shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

**Article 35**

1. The institutions or Government departments administering the medical care shall co-operate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work.
2. National laws or regulations may authorise such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

**Article 36**

1. In respect of incapacity for work, total loss of earning capacity likely to be permanent or corresponding loss of faculty, or the death of the breadwinner, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66.
2. In case of partial loss of earning capacity likely to be permanent, or corresponding loss of faculty, the benefit, where payable, shall be a periodical payment representing a suitable proportion of that specified for total loss of earning capacity or corresponding loss of faculty.

3. The periodical payment may be commuted for a lump sum:

- (a) where the degree of incapacity is slight; or
- (b) where the competent authority is satisfied that the lump sum will be properly utilised.

**Article 37**

The benefit specified in Articles 34 and 36 shall, in a contingency covered, be secured at least to a person protected who was employed in the territory of the Member at the time of the accident if the injury is due to accident or at the time of contracting the disease if the injury is due to a disease and, for periodical payments in respect of death of the breadwinner, to the widow and children of such person.

**Article 38**

The benefit specified in Articles 34 and 36 shall be granted throughout the contingency, except that, in respect of incapacity for work, the benefit need not be paid for the first three days in each case of suspension of earnings.

**PART VII. FAMILY BENEFIT**

**Article 39**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

**Article 40**

The contingency covered shall be responsibility for the maintenance of children as prescribed.

**Article 41**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
- (c) all residents whose means during the contingency do not exceed prescribed limits; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

**Article 42**

The benefit shall be:

- (a) a periodical payment granted to any person protected having completed the prescribed qualifying period; or

- (b) the provision to or in respect of children, of food, clothing, housing, holidays or domestic help; or
- (c) a combination of (a) and (b).

**Article 43**

The benefit specified in Article 42 shall be secured at least to a person protected who, within a prescribed period, has completed a qualifying period which may be three months of contribution or employment, or one year of residence, as may be prescribed.

**Article 44**

The total value of the benefits granted in accordance with Article 42 to the persons protected shall be such as to represent:

- (a) 3 per cent. of the wage of an ordinary adult male labourer, as determined in accordance with the rules laid down in Article 66, multiplied by the total number of children of persons protected; or
- (b) 1.5 per cent. of the said wage, multiplied by the total number of children of all residents.

**Article 45**

Where the benefit consists of a periodical payment, it shall be granted throughout the contingency.

**PART VIII. MATERNITY BENEFIT**

**Article 46**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

**Article 47**

The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations, resulting therefrom.

**Article 48**

The persons protected shall comprise:

- (a) all women in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees and, for maternity medical benefit, also the wives of men in these classes; or
- (b) all women in prescribed classes of the economically active population, which classes constitute not less than 20 per cent. of all residents, and, for maternity medical benefit, also the wives of men in these classes; or

- (c) where a declaration made in virtue of Article 3 is in force, all women in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and, for maternity medical benefit, also the wives of men in these classes.

**Article 49**

1. In respect of pregnancy and confinement and their consequences, the maternity medical benefit shall be medical care as specified in paragraphs 2 and 3 of this Article.

2. The medical care shall include at least:

- (a) pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and
- (b) hospitalisation where necessary.

3. The medical care specified in paragraph 2 of this Article shall be afforded with a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.

4. The institutions or Government departments administering the maternity medical benefit shall, by such means as may be deemed appropriate, encourage the women protected to avail themselves of the general health services placed at their disposal by the public authorities or by other bodies recognised by the public authorities.

**Article 50**

In respect of suspension of earnings resulting from pregnancy and from confinement and their consequences, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66. The amount of the periodical payment may vary in the course of the contingency, subject to the average rate thereof complying with these requirements.

**Article 51**

The benefit specified in Articles 49 and 50 shall, in a contingency covered, be secured at least to a woman in the classes protected who has completed such qualifying period as may be considered necessary to preclude abuse, and the benefit specified in Article 49 shall also be secured to the wife of a man in the classes protected where the latter has completed such qualifying period.

**Article 52**

The benefit specified in Articles 49 and 50 shall be granted throughout the contingency, except that the periodical payment may be limited to 12 weeks, unless a longer period of abstention

from work is required or authorised by national laws or regulations, in which event it may not be limited to a period less than such longer period.

## **PART IX. INVALIDITY BENEFIT**

### **Article 53**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

### **Article 54**

The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

### **Article 55**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees; or
- (b) prescribed classes of the economically active population, constituting not less than 20 per cent. of all residents; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

### **Article 56**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

### **Article 57**

1. The benefit specified in Article 56 shall, in a contingency covered, be secured at least:

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period

which may be 15 years of contribution or employment, or 10 years of residence; or

- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

- (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
- (b) where, in principle, all economically active persons are protected, to a person protected who has completed a qualifying period of three years of contribution and in respect of whom, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the pension corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced pension shall be payable in conformity with paragraph 2 of this Article.

### **Article 58**

The benefit specified in Articles 56 and 57 shall be granted throughout the contingency or until an old-age benefit becomes payable.

## **PART X. SURVIVORS' BENEFIT**

### **Article 59**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

**Article 60**

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

**Article 61**

The persons protected shall comprise:

- (a) the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees; or
- (b) the wives and the children of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 20 per cent. of all residents; or
- (c) all resident widows and resident children who have lost their breadwinner and whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 67; or
- (d) where a declaration made in virtue of Article 3 is in force, the wives and the children of breadwinners in prescribed classes of employees, which classes constitute not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more.

**Article 62**

The benefit shall be a periodical payment calculated as follows:

- (a) where classes of employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 65 or with the requirements of Article 66;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 67.

**Article 63**

1. The benefit specified in Article 62 shall, in a contingency covered, be secured at least:

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or 10 years of residence; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number of contributions has been paid.

2. Where the benefit referred to in paragraph 1 is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, half the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part XI but a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part XI may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution or employment but is less than 15 years of contribution or employment; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. In order that a childless widow presumed to be incapable of self-support may be entitled

to a survivor's benefit, a minimum duration of the marriage may be required.

**Article 64**

The benefit specified in Articles 62 and 63 shall be granted throughout the contingency.

**PART XI. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS**

**Article 65**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be:

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of

75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or

- (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

**Article 66**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be:

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, and reproduced in the Annex to this Convention, or such classification as at any time amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates

differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. The rates of current periodical payments in respect of old age, employment injury (except in case of incapacity for work), invalidity and death of breadwinner, shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

**Article 67**

In the case of a periodical payment to which this Article applies:

- (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
- (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;
- (c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 66;
- (d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent. the total amount of benefits which would be obtained by applying the provisions of Article 66 and the provisions of:
  - (i) Article 15 (b) for Part III;
  - (ii) Article 27 (b) for Part V;
  - (iii) Article 55 (b) for Part IX;
  - (iv) Article 61 (b) for Part X.

SCHEDULE TO PART XI. PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES

Part	Contingency	Standard Beneficiary	Percentage
III	Sickness	Man with wife and two children	45
IV	Unemployment	Man with wife and two children	45
V	Old age	Man with wife of pensionable age	40
VI	<i>Employment injury:</i>		
	Incapacity of work	Man with wife and two children	50
	Invalidity	Man with wife and two children	50
	Survivors	Widow with two children	40
VIII	Maternity	Woman	45
IX	Invalidity	Man with wife and two children	40
X	Survivors	Widow with two children	40

**PART XII. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS**

**Article 68**

1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.

2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

**PART XIII. COMMON PROVISIONS**

**Article 69**

A benefit to which a person protected would otherwise be entitled in compliance with any of Parts II to X of this Convention may be suspended to such extent as may be prescribed:

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense, or at the expense of a social security institution or service, subject to any portion of the benefit in excess of the value of such maintenance being granted to the dependants of the beneficiary;
- (c) as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, and

during any period in respect of which he is indemnified for the contingency by a third party, subject to the part of the benefit which is suspended not exceeding the other benefit or the indemnity by a third party;

- (d) where the person concerned has made a fraudulent claim;
- (e) where the contingency has been caused by a criminal offence committed by the person concerned;
- (f) where the contingency has been caused by the wilful misconduct of the person concerned;
- (g) in appropriate cases, where the person concerned neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries;
- (h) in the case of unemployment benefit, where the person concerned has failed to make use of the employment services placed at his disposal;
- (i) in the case of unemployment benefit, where the person concerned has lost his employment as a direct result of a stoppage of work due to a trade dispute, or has left it voluntarily without just cause; and
- (j) in the case of survivors' benefit, as long as the widow is living with a man as his wife.

**Article 70**

1. Every claimant shall have a right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a Government department responsible to a legislature is entrusted with the administration of medical care, the right of

appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with social security questions and on which the persons protected are represented, no right of appeal shall be required.

**Article 71**

1. The cost of the benefits provided in compliance with this Convention and the cost of the administration of such benefits shall be borne collectively by way of insurance contributions or taxation or both in a manner which avoids hardship to persons of small means and takes into account the economic situation of the Member and of the classes of persons protected.

2. The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent. of the total of the financial resources allocated to the protection of employees and their wives and children. For the purpose of ascertaining whether this condition is fulfilled, all the benefits provided by the Member in compliance with this Convention, except family benefit and, if provided by a special branch, employment injury benefit, may be taken together.

3. The Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention, and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.

**Article 72**

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws or regulations may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of the Convention.

**PART XIV. MISCELLANEOUS PROVISIONS**

**Article 73**

This Convention shall not apply to:

- (a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned;
- (b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

**Article 74**

This Convention shall not be regarded as revising any existing Convention.

**Article 75**

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

(Editors' Note: Provisions pursuant to Article 75 are contained in Conventions Nos. 121 (Article 29), 128 (Article 45) and 130 (Article 36).)

**Article 76**

1. Each Member which ratifies this Convention shall include in the annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation:

- (a) full information concerning the laws and regulations by which effect is given to the provisions of the Convention; and
- (b) evidence, conforming in its presentation as closely as is practicable with any suggestions for greater uniformity of presentation made by the Governing Body of the International Labour Office, of compliance with the statistical conditions specified in:
  - (i) Articles 9 (a), (b), (c) or (d); 15 (a), (b) or (d); 21 (a) or (c); 27 (a), (b) or (d); 33 (a) or (b); 41 (a), (b) or (d); 48 (a), (b) or (c); 55 (a), (b) or (d); 61 (a), (b) or (d), as regards the number of persons protected;
  - (ii) Articles 44, 65, 66 or 67, as regards the rates of benefit;

- (iii) subparagraph (a) of paragraph 2 of Article 18, as regards duration of sickness benefit;
- (iv) paragraph 2 of Article 24, as regards duration of unemployment benefit; and
- (v) paragraph 2 of Article 71, as regards the proportion of the financial resources constituted by the insurance contributions of employees protected.

2. Each Member which ratifies this Convention shall report to the Director-General of the International Labour Office at appropriate intervals, as requested by the Governing Body, on the position of its law and practice in regard to any of Parts II to X of the Convention not specified in its ratification or in a notification made subsequently in virtue of Article 4.

#### **Article 77**

1. This Convention does not apply to seamen or seafishermen; provision for the protection of seamen and seafishermen has been made by the International Labour Conference in the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946.

2. A Member may exclude seamen and seafishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

### **PART XV. FINAL PROVISIONS**

#### **Article 78**

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

#### **Article 79**

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

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

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

#### **Article 80**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the

International Labour Organisation shall indicate:

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

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

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

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### **Article 81**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention or of the Parts thereof accepted by the Declaration will be applied in the territory concerned without modification or subject to modifications; when the Declaration indicates that the provisions of the Convention or of certain Parts thereof will be applied subject to modifications, it shall give details of the said modifications.

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

3. The Member, Members or international authority concerned may, at any time at which

this Convention is subject to denunciation in accordance with the provisions of Article 82, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

**Article 82**

1. A Member which has ratified this Convention may, after the expiration of the ten years from the date on which the Convention first comes into force, denounce the Convention or any one or more of Parts II to X thereof 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 the Convention or any one of Parts II to X thereof at the expiration of each period of ten years under the terms provided for in this Article.

**Article 83**

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

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

**Article 84**

The Director-General of the International Labour Office shall communicate to the

Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 85**

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 86**

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 82 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 87**

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

**ANNEX: International standard industrial classification of all economic activities (revised up to 1969)**

## C118 – Equality of Treatment (Social Security) Convention, 1962

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-sixth Session on 6 June 1962, and

Having decided upon the adoption of certain proposals with regard to equality of treatment of nationals and non-nationals in social security, 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-eighth day of June of the year one thousand nine hundred and sixty-two the following Convention, which may be cited as the Equality of Treatment (Social Security) Convention, 1962:

### Article 1

In this Convention:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **benefits** refers to all benefits, grants and pensions, including any supplements or increments;
- (c) the term **benefits granted under transitional schemes** means either benefits granted to persons who have exceeded a prescribed age at the date when the legislation applicable came into force, or benefits granted as a transitional measure in consideration of events occurring or periods completed outside the present boundaries of the territory of a Member;
- (d) the term **death grant** means any lump sum payable in the event of death;
- (e) the term **residence** means ordinary residence;
- (f) the term **prescribed** means determined by or in virtue of national legislation as defined in subparagraph (a) above;
- (g) the term **refugee** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951;
- (h) the term **stateless person** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954.

### Article 2

1. Each Member may accept the obligations of this Convention in respect of any one or more of the following branches of social security for which it has in effective operation legislation covering its own nationals within its own territory:

- (a) medical care;
- (b) sickness benefit;
- (c) maternity benefit;
- (d) invalidity benefit;
- (e) old-age benefit;
- (f) survivors' benefit;
- (g) employment injury benefit;
- (h) unemployment benefit; and
- (i) family benefit.

2. Each Member for which this Convention is in force shall comply with its provisions in respect of the branch or branches of social security for which it has accepted the obligations of the Convention.

3. Each Member shall specify in its ratification in respect of which branch or branches of social security it accepts the obligations of this Convention.

4. 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 branches of social security not already specified in its ratification.

5. The undertakings referred to in paragraph 4 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

6. For the purpose of the application of this Convention, each Member accepting the obligations thereof in respect of any branch of social security which has legislation providing for benefits of the type indicated in clause (a) or (b) below shall communicate to the Director-General of the International Labour Office a statement indicating the benefits provided for by its legislation which it considers to be:

- (a) benefits other than those the grant of which depends either on direct financial participation by the persons protected or their employer, or on a qualifying period of occupational activity; or

(b) benefits granted under transitional schemes.

7. The communication referred to in paragraph 6 of this Article shall be made at the time of ratification or at the time of notification in accordance with paragraph 4 of this Article; as regards any legislation adopted subsequently, the communication shall be made within three months of the date of the adoption of such legislation.

**Article 3**

1. Each Member for which this Convention is in force shall grant within its territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention.

2. In the case of survivors' benefits, such equality of treatment shall also be granted to the survivors of the nationals of a Member for which the Convention is in force, irrespective of the nationality of such survivors.

3. Nothing in the preceding paragraphs of this Article shall require a Member to apply the provisions of these paragraphs, in respect of the benefits of a specified branch of social security, to the nationals of another Member which has legislation relating to that branch but does not grant equality of treatment in respect thereof to the nationals of the first Member.

**Article 4**

1. Equality of treatment as regards the grant of benefits shall be accorded without any condition of residence: Provided that equality of treatment in respect of the benefits of a specified branch of social security may be made conditional on residence in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory.

2. Notwithstanding the provisions of paragraph 1 of this Article, the grant of the benefits referred to in paragraph 6 (a) of Article 2--other than medical care, sickness benefit, employment injury benefit and family benefit--may be made subject to the condition that the beneficiary has resided on the territory of the Member in virtue of the legislation of which the benefit is due, or, in the case of a survivor, that the deceased had resided there, for a period which shall not exceed:

(a) six months immediately preceding the filing of claim, for grant of maternity benefit and unemployment benefit;

(b) five consecutive years immediately preceding the filing of claim, for grant of invalidity benefit, or immediately preceding death, for grant of survivors' benefit;

(c) ten years after the age of 18, which may include five consecutive years immediately preceding the filing of claim, for grant of old-age benefit.

3. Special provisions may be prescribed in respect of benefits granted under transitional schemes.

4. The measures necessary to prevent the cumulation of benefits shall be determined, as necessary, by special arrangements between the Members concerned.

**Article 5**

1. In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of the branch or branches of social security concerned shall guarantee both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions, subject to measures for this purpose being taken, where necessary, in accordance with Article 8.

2. In case of residence abroad, the provision of invalidity, old-age and survivors' benefits of the type referred to in paragraph 6 (a) of Article 2 may be made subject to the participation of the Members concerned in schemes for the maintenance of rights as provided for in Article 7.

3. The provisions of this Article do not apply to benefits granted under transitional schemes.

**Article 6**

In addition to the provisions of Article 4, each Member which has accepted the obligations of this Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of this Convention for that branch, in respect of children who reside on the territory of any such Member, under conditions and within limits to be agreed upon by the Members concerned.

**Article 7**

1. Members for which this Convention is in force shall, upon terms being agreed between the Members concerned in accordance with Article 8, endeavour to participate in schemes

for the maintenance of the acquired rights and rights in course of acquisition under their legislation of the nationals of Members for which the Convention is in force, for all branches of social security in respect of which the Members concerned have accepted the obligations of the Convention.

2. Such schemes shall provide, in particular, for the totalisation of periods of insurance, employment or residence and of assimilated periods for the purpose of the acquisition, maintenance or recovery of rights and for the calculation of benefits.

3. The cost of invalidity, old-age and survivors' benefits as so determined shall either be shared among the Members concerned, or be borne by the Member on whose territory the beneficiaries reside, as may be agreed upon by the Members concerned.

#### **Article 8**

The Members for which this Convention is in force may give effect to their obligations under the provisions of Articles 5 and 7 by ratification of the Maintenance of Migrants' Pension Rights Convention, 1935, by the application of the provisions of that Convention as between particular Members by mutual agreement, or by any multilateral or bilateral agreement giving effect to these obligations.

#### **Article 9**

The provisions of this Convention may be derogated from by agreements between Members which do not affect the rights and duties of other Members and which make provision for the maintenance of rights in course of acquisition and of acquired rights under conditions at least as favourable on the whole as those provided for in this Convention.

#### **Article 10**

1. The provisions of this Convention apply to refugees and stateless persons without any condition of reciprocity.

2. This Convention does not apply to special schemes for civil servants, special schemes for war victims, or public assistance.

3. This Convention does not require any Member to apply the provisions thereof to persons who, in accordance with the provisions of international instruments, are exempted from its national social security legislation.

#### **Article 11**

The Members for which this Convention is in force shall afford each other administrative assistance free of charge with a view to facilitating the application of the Convention

and the execution of their respective social security legislation.

#### **Article 12**

1. This Convention does not apply to benefits payable prior to the coming into force of the Convention for the Member concerned in respect of the branch of social security under which the benefit is payable.

2. The extent to which the Convention applies to benefits attributable to contingencies occurring before its coming into force for the Member concerned in respect of the branch of social security under which the benefit is payable thereafter shall be determined by multilateral or bilateral agreement or in default thereof by the legislation of the Member concerned.

#### **Article 13**

This Convention shall not be regarded as revising any existing Convention.

#### **Article 14**

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

#### **Article 15**

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 16**

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 17**

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 18**

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 19**

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 20**

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 16 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 21**

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

**C121 – Employment Injury Benefits Convention, 1964**

**Preamble**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-eighth Session on 17 June 1964, and

Having decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases, 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 eighth day of July of the year one thousand nine hundred and sixty-four the following Convention, which may be cited as the Employment Injury Benefits Convention, 1964:

**Article 1**

In this Convention:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **industrial undertaking** includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication;
- (d) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;
- (e) the term **dependent child** covers:
  - (i) a child under school-leaving age or under 15 years of age, whichever is the higher, and

- (ii) a child under a prescribed age higher than that specified in subclause (i) and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, on conditions laid down by national legislation: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in subclause (i).

#### **Article 2**

1. A Member whose economic and medical facilities are insufficiently developed may avail itself by a declaration accompanying its ratification of the temporary exceptions provided for in the following Articles: Article 5, Article 9, paragraph 3, clause (b), Article 12, Article 15, paragraph 2, and Article 18, paragraph 3. Any such declaration shall state the reason for such exceptions.

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in its report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

#### **Article 3**

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

- (a) seafarers, including seafishermen,
- (b) public servants,

where these categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.

2. Where a declaration under paragraph 1 of this Article is in force, the Member may exclude the persons belonging to the category or categories excluded from the application of the Convention from the number of employees when calculating the percentage of employees in compliance with paragraph 2, clause (d), of Article 4, and with Article 5.

3. Any Member which has made a declaration under paragraph 1 of this Article may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of this Convention in

respect of a category or categories excluded at the time of its ratification.

#### **Article 4**

1. National legislation concerning employment injury benefits shall protect all employees, including apprentices, in the public and private sectors, including co-operatives, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

2. Any Member may make such exceptions as it deems necessary in respect of:

- (a) persons whose employment is of a casual nature and who are employed otherwise than for the purpose of the employer's trade or business;
- (b) out-workers;
- (c) members of the employer's family living in his house, in respect of their work for him;
- (d) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under clauses (a) to (c).

#### **Article 5**

Where a declaration provided for in Article 2 is in force, the application of national legislation concerning employment injury benefits may be limited to prescribed categories of employees, which shall total in number not less than 75 per cent. of all employees in industrial undertakings, and, in respect of the death of the breadwinner, prescribed categories of beneficiaries.

#### **Article 6**

The contingencies covered shall include the following where due to an employment injury:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national legislation;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered as the result of the death of the breadwinner by prescribed categories of beneficiaries.

#### **Article 7**

1. Each Member shall prescribe a definition of "industrial accident", including the conditions under which a commuting accident is considered to be an industrial accident, and shall specify the terms of such definition in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation.

2. Where commuting accidents are covered by social security schemes other than employment injury schemes, and these schemes provide in respect of commuting accidents benefits which, when taken together, are at least equivalent to those required under this Convention, it shall not be necessary to make provision for commuting accidents in the definition of "industrial accident".

**Article 8**

Each Member shall:

- (a) prescribe a list of diseases, comprising at least the diseases enumerated in Schedule I to this Convention, which shall be regarded as occupational diseases under prescribed conditions; or
- (b) include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in Schedule I to this Convention; or
- (c) prescribe a list of diseases in conformity with clause (a), complemented by a general definition of occupational diseases or by other provisions for establishing the occupational origin of diseases not so listed or manifesting themselves under conditions different from those prescribed.

**Article 9**

1. Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of the following benefits:

- (a) medical care and allied benefits in respect of a morbid condition;
- (b) cash benefits in respect of the contingencies specified in Article 6, clauses (b), (c) and (d).

2. Eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions: Provided that a period of exposure may be prescribed for occupational diseases.

3. The benefits shall be granted throughout the contingency: Provided that in respect of incapacity for work the cash benefit need not be paid for the first three days:

- (a) where the legislation of a Member provides for a waiting period at the date on which this Convention comes into force, on condition that the Member includes in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement that its reason for availing itself of this provision subsists; or

- (b) where a declaration provided for in Article 2 is in force.

**Article 10**

1. Medical care and allied benefits in respect of a morbid condition shall comprise:

- (a) general practitioner and specialist in-patient and out-patient care, including domiciliary visiting;
- (b) dental care;
- (c) nursing care at home or in hospital or other medical institutions;
- (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions;
- (e) dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances kept in repair and renewed as necessary, and eyeglasses;
- (f) the care furnished by members of such other professions as may at any time be legally recognised as allied to the medical profession, under the supervision of a medical or dental practitioner; and
- (g) the following treatment at the place of work, wherever possible:
  - (i) emergency treatment of persons sustaining a serious accident;
  - (ii) follow-up treatment of those whose injury is slight and does not entail discontinuance of work.

2. The benefits provided in accordance with paragraph 1 of this Article shall be afforded, using all suitable means, with a view to maintaining, restoring or, where this is not possible, improving the health of the injured person and his ability to work and to attend to his personal needs.

**Article 11**

1. Any Member which provides medical care and allied benefits by means of a general health scheme or a medical care scheme for employed persons may specify in its legislation that such care shall be made available to persons who have sustained employment injuries on the same terms as to other persons entitled thereto, on condition that the rules on the subject are so designed as to avoid hardship.

2. Any Member which provides medical care and allied benefits by reimbursing expenses may in its legislation make special rules in respect of cases in which the extent, duration or cost of such care exceed reasonable limits, on condition that the rules on the subject are not inconsistent with the purpose stated in paragraph 2 of Article 10 and are so designed as to avoid hardship.

### **Article 12**

Where a declaration provided for in Article 2 is in force, medical care and allied benefits shall include at least:

- (a) general practitioner care, including domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
- (c) the essential pharmaceutical supplies on prescription by a medical or other qualified practitioner;
- (d) hospitalisation, where necessary; and
- (e) wherever possible, emergency treatment at the place of work of persons sustaining an industrial accident.

### **Article 13**

The cash benefit in respect of temporary or initial incapacity for work shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

### **Article 14**

1. Cash benefits in respect of loss of earning capacity likely to be permanent or corresponding loss of faculty shall be payable in all cases in which such loss, in excess of a prescribed degree, remains at the expiration of the period during which benefits are payable in accordance with Article 13.

2. In case of total loss of earning capacity likely to be permanent or corresponding loss of faculty, the benefit shall be a periodical payment calculated in such a manner as to comply either with the requirements of Article 19 or with the requirements of Article 20.

3. In case of substantial partial loss of earning capacity likely to be permanent which is in excess of a prescribed degree, or corresponding loss of faculty, the benefit shall be a periodical payment representing a suitable proportion of that provided for in paragraph 2 of this Article.

4. In case of partial loss of earning capacity likely to be permanent which is not substantial but which is in excess of the prescribed degree referred to in paragraph 1 of this Article, or corresponding loss of faculty, the cash benefit may take the form of a lump-sum payment.

5. The degrees of loss of earning capacity or corresponding loss of faculty referred to in paragraphs 1 and 3 of this Article shall be prescribed in such manner as to avoid hardship.

### **Article 15**

1. In exceptional circumstances, and with the agreement of the injured person, all or part of the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof when the competent authority has reason to believe that such lump sum will be utilised in a manner which is particularly advantageous for the injured person.

2. Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraphs 2 and 3 of Article 14 may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

### **Article 16**

Increments in periodical payments or other supplementary or special benefits, as prescribed, shall be provided for disabled persons requiring the constant help or attendance of another person.

### **Article 17**

The conditions in which periodical payments due in respect of loss of earning capacity or corresponding loss of faculty shall be reassessed, suspended or cancelled by reference to a change in the degree of loss shall be prescribed.

### **Article 18**

1. The cash benefit in respect of death of the breadwinner shall be a periodical payment to a widow as prescribed, a disabled and dependent widower, dependent children of the deceased and other persons as may be prescribed; this payment shall be calculated in such a manner as to comply either with the requirements of Article 19 or with the requirement of Article 20: Provided that it shall not be necessary to make provision for a benefit to a disabled and dependent widower where the cash benefits to other survivors are appreciably in excess of those required by this Convention and where social security schemes other than employment injury schemes provide to such widower benefits which are appreciably in excess of those in respect of invalidity required under the Social Security (Minimum Standards) Convention, 1952.

2. In addition, a funeral benefit shall be provided at a prescribed rate which shall not be less than the normal cost of a funeral: Provided that where cash benefits to survivors

are appreciably in excess of those required by this Convention the right to funeral benefit may be made subject to prescribed conditions.

3. Where a declaration provided for in Article 2 is in force and the Member concerned considers that it lacks the necessary administrative facilities for periodical payments, the periodical payment provided for in paragraph 1 of this Article may be converted into a lump sum corresponding to the actuarial equivalent thereof, as computed on the basis of available data.

**Article 19**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be:

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or

(c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or

(d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances, if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

10. No periodical payment shall be less than a prescribed minimum amount.

**Article 20**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in Schedule II to this Convention, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family

allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be:

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of clause (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national laws or regulations, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

8. No periodical payment shall be less than a prescribed minimum amount.

#### **Article 21**

1. The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and paragraph 1 of Article 18 shall be reviewed following substantial changes in the general level of earnings where these result from substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22

of the Constitution of the International Labour Organisation, and shall specify any action taken.

#### **Article 22**

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed:

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;
- (c) where the person concerned has made a fraudulent claim;
- (d) where the employment injury has been caused by a criminal offence committed by the person concerned;
- (e) where the employment injury has been caused by voluntary intoxication or by the serious and wilful misconduct of the person concerned;
- (f) where the person concerned, without good cause, neglects to make use of the medical care and allied benefits or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and
- (g) as long as the surviving spouse is living with another person as spouse.

2. In the cases and within the limits prescribed, part of the cash benefit otherwise due shall be paid to the dependants of the person concerned.

#### **Article 23**

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

3. Where a claim is settled by a special tribunal established to deal with employment injury benefit questions or with social security questions in general and on which the persons protected are represented, no right of appeal shall be required.

**Article 24**

1. Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

2. The Member shall accept general responsibility for the proper administration of the institutions or services concerned in the application of this Convention.

**Article 25**

Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

**Article 26**

1. Each Member shall, under prescribed conditions:

- (a) take measures to prevent industrial accidents and occupational diseases;
- (b) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and
- (c) take measures to further the placement of disabled persons in suitable employment.

2. Each Member shall as far as possible furnish in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation information concerning the frequency and severity of industrial accidents.

**Article 27**

Each Member shall within its territory assure to non-nationals equality of treatment with its own nationals as regards employment injury benefits.

**Article 28**

1. This Convention revises the Workmen's Compensation (Agriculture) Convention, 1921, the Workmen's Compensation (Accidents) Convention, 1925, the Workmen's Compensation (Occupational Diseases) Convention, 1925, and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934.

2. Ratification of this Convention by a Member which is a party to the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934, shall, in accordance with Article 8 thereof, ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force, but the coming into force of this Convention shall not close that Convention to further ratification.

**Article 29**

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

**Article 30**

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

**Article 31**

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority amendments to Schedule I to this Convention.

2. Such amendments shall take effect in respect of any Member already a party to the Convention when such Member notifies the Director-General of the International Labour Office of its acceptance thereof.

3. Unless the Conference otherwise decides when adopting an amendment, an amendment shall be effective, by reason of its adoption by the Conference, in respect of any Member subsequently ratifying the Convention.

**Article 32**

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

**Article 33**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

**Article 34**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 35**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the

Members of the Organisation to the date upon which the Convention will come into force.

**Article 36**

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

**Article 37**

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

**Article 38**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
  - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 34 above, if and when the new revising Convention shall have come into force;
  - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 39**

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

## SCHEDULE I. LIST OF OCCUPATIONAL DISEASES

Occupational diseases	Work involving exposure to risk *
1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraco-silicosis, asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death.	All work involving exposure to the risk concerned.
2. Bronchopulmonary diseases caused by hard-metal dust.	"
3. Bronchopulmonary diseases caused by cotton dust (byssinosis), or flax, hemp or sisal dust.	"
4. Occupational asthma caused by sensitising agents or irritants both recognised in this regard and inherent in the work process.	"
5. Extrinsic allergic alveolitis and its sequelae caused by the inhalation of organic dusts, as prescribed by national legislation.	"
6. Diseases caused by beryllium or its toxic compounds.	"
7. Diseases caused by cadmium or its toxic compounds.	"
8. Diseases caused by phosphorus or its toxic compounds.	"
9. Diseases caused by chromium or its toxic compounds.	"
10. Diseases caused by manganese or its toxic compounds.	"
11. Diseases caused by arsenic or its toxic compounds.	"
12. Diseases caused by mercury or its toxic compounds.	"
13. Diseases caused by lead or its toxic compounds.	"
14. Diseases caused by fluorine or its toxic compounds.	"
15. Diseases caused by carbon disulfide.	"
16. Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons.	"
17. Diseases caused by benzene or its toxic homologues.	"
18. Diseases caused by toxic nitro- and amino-derivatives of benzene or its homologues.	"
19. Diseases caused by nitroglycerin or other nitric acid esters.	"
20. Diseases caused by alcohols, glycols or ketones.	"
21. Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulfide.	"
22. Hearing impairment caused by noise.	"

<b>Occupational diseases</b>	<b>Work involving exposure to risk *</b>
23. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves).	"
24. Diseases caused by work in compressed air.	"
25. Diseases caused by ionising radiations.	All work involving exposure to the action of ionising radiations.
26. Skin diseases caused by physical, chemical or biological agents not included under other items.	All work involving exposure to the risk concerned.
27. Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances.	"
28. Lung cancer or mesotheliomas caused by asbestos.	"
29. Infectious or parasitic diseases contracted in an occupation where there is a particular risk of contamination.	(a) Health or laboratory work. (b) Veterinary work. (c) Work handling animals, animal carcasses, parts of such carcasses, or merchandise which may have been contaminated by animals, animal carcasses, or parts of such carcasses. (d) Other work carrying a particular risk of contamination.

\* In the application of this Schedule the degree and type of exposure should be taken into account when appropriate.

SCHEDULE II. PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES

<b>Category</b>	<b>Standard beneficiary</b>	<b>Percentage</b>
1. Temporary or initial incapacity for work	Man with wife and two children	60
2. Total loss of earning capacity or corresponding loss of faculty	Man with wife and two children	60
3. Death of breadwinner	Widow with two children	50

**ANNEX: International standard industrial classification of all economic activities (revised up to 1969)**

List of major divisions, divisions and major groups

**C128 – Invalidity, Old-Age and Survivors’ Benefits Convention, 1967**

**Preamble**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-first Session on 7 June 1967, and

Having decided upon the adoption of certain proposals with regard to the revision of the Old-Age Insurance (Industry, etc.) Convention, 1933, the Old-Age Insurance (Agriculture) Convention, 1933, the Invalidity Insurance (Industry, etc.) Convention, 1933, the Invalidity Insurance (Agriculture) Convention, 1933, the Survivors’ Insurance (Industry, etc.)

Convention, 1933, and the Survivors' Insurance (Agriculture) Convention, 1933, 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-ninth day of June of the year one thousand nine hundred and sixty-seven the following Convention, which may be cited as the Invalidity, Old-Age and Survivors' Benefits Convention, 1967:

## PART I. GENERAL PROVISIONS

### Article 1

In this Convention:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **industrial undertaking** includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas, water and sanitary services; and transport, storage and communication;
- (d) the term **residence** means ordinary residence in the territory of the Member, and the term **resident** means a person ordinarily resident in the territory of the Member;
- (e) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;
- (f) the term **wife** means a wife who is dependent on her husband;
- (g) the term **widow** means a woman who was dependent on her husband at the time of his death;
- (h) the term **child** covers:
  - (i) a child under school-leaving age or under 15 years of age, whichever is the higher; and
  - (ii) a child under a prescribed age higher than that specified in clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in clause (i) of this subparagraph;
- (i) the term **qualifying period** means a period of contribution, or a period of

employment, or a period of residence, or any combination thereof, as may be prescribed;

- (j) the terms **contributory benefits and non-contributory benefits** means respectively benefits the grant of which depends or does not depend on direct financial participation by the persons protected or their employer or on a qualifying period of occupational activity.

### Article 2

1. Each Member for which this Convention is in force shall comply with:

- (a) Part I;
- (b) at least one of Parts II, III and IV;
- (c) the relevant provisions of Parts V and VI; and
- (d) Part VII.

2. Each Member shall specify in its ratification in respect of which of Parts II to IV it accepts the obligations of the Convention.

### Article 3

1. 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 Parts II to IV not already specified in its ratification.

2. The undertakings referred to in paragraph 1 of this Article shall be deemed to be an integral part of the ratification and to have the force of ratification as from the date of notification.

### Article 4

1. A Member whose economy is insufficiently developed may avail itself, by a declaration accompanying its ratification, of the temporary exceptions provided for in the following Articles: Article 9, paragraph 2; Article 13, paragraph 2; Article 16, paragraph 2; and Article 22, paragraph 2. Any such declaration shall state the reason for such exceptions.

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

3. Each Member which has made a declaration under paragraph 1 of this Article shall increase the number of employees protected as circumstances permit.

**Article 5**

Where, for the purpose of compliance with any of the Parts II to IV of this Convention which are to be covered by its ratification, a Member is required to protect prescribed classes of persons constituting not less than a specified percentage of employees or of the whole economically active population, the Member shall satisfy itself, before undertaking to comply with any such Part, that the relevant percentage is attained.

**Article 6**

For the purpose of compliance with Parts II, III or IV of this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by its legislation for the persons to be protected:

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
- (b) covers a substantial part of the persons whose earnings do not exceed those of the skilled manual male employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the relevant provisions of the Convention.

**PART II. INVALIDITY BENEFIT**

**Article 7**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

**Article 8**

The contingency covered shall include incapacity to engage in any gainful activity, to an extent prescribed, which incapacity is likely to be permanent or persists after the termination of a prescribed period of temporary or initial incapacity.

**Article 9**

1. The persons protected shall comprise:
  - (a) all employees, including apprentices; or
  - (b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or
  - (c) all residents, or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.
2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 25 per cent. of all employees;
- (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent. of all employees in industrial undertakings.

**Article 10**

The invalidity benefit shall be a periodical payment calculated as follows:

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

**Article 11**

1. The benefit specified in Article 10 shall, in a contingency covered, be secured at least:
  - (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence; or
  - (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whom, while he was of working age, the prescribed yearly average number or yearly number of contributions has been paid.
2. Where the invalidity benefit is conditional upon a minimum period of contribution, employment or residence, a reduced benefit shall be secured at least:
  - (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of five years of contribution, employment or residence; or
  - (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whom, while he was of working age, half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected who has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

**Article 12**

The benefit specified in Articles 10 and 11 shall be granted throughout the contingency or until an old-age benefit becomes payable.

**Article 13**

1. Each Member for which this Part of this Convention is in force shall, under prescribed conditions:

- (a) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and
- (b) take measures to further the placement of disabled persons in suitable employment.

2. Where a declaration made in virtue of Article 4 is in force, the Member may derogate from the provisions of paragraph 1 of this Article.

**PART III. OLD-AGE BENEFIT**

**Article 14**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age

benefit in accordance with the following Articles of this Part.

**Article 15**

1. The contingency covered shall be survival beyond a prescribed age.

2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to demographic, economic and social criteria, which shall be demonstrated statistically.

3. If the prescribed age is 65 years or higher, the age shall be lowered, under prescribed conditions, in respect of persons who have been engaged in occupations that are deemed by national legislation, for the purpose of old-age benefit, to be arduous or unhealthy.

**Article 16**

1. The persons protected shall comprise:

- (a) all employees, including apprentices; or
- (b) prescribed classes of the economically active population, constituting not less than 75 per cent. of the whole economically active population; or
- (c) all residents or residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 28.

2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 25 per cent. of all employees; or
- (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent. of all employees in industrial undertakings.

**Article 17**

The old-age benefit shall be a periodical payment calculated as follows:

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

**Article 18**

1. The benefit specified in Article 17 shall, in a contingency covered, be secured at least:

- (a) to a person protected who has completed, prior to the contingency, in accordance

with prescribed rules, a qualifying period which may be 30 years of contribution or employment, or 20 years of residence; or

- (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, the prescribed yearly average number of contributions has been paid.
2. Where the old-age benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:
    - (a) to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of 15 years of contribution or employment; or
    - (b) where, in principle, all economically active persons are protected, to a person protected who has completed, prior to the contingency, a prescribed qualifying period of contribution and in respect of whom, while he was of working age, half of the yearly average number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.
  3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected who has completed, in accordance with prescribed rules, ten years of contribution or employment, or five years of residence.
  4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds ten years of contribution or employment or five years of residence but is less than 30 years of contribution or employment or 20 years of residence; if such qualifying period exceeds 15 years of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

#### **Article 19**

The benefit specified in Articles 17 and 18 shall be granted throughout the contingency.

## **PART IV. SURVIVORS' BENEFIT**

### **Article 20**

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

### **Article 21**

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner.
2. In the case of a widow the right to a survivors' benefit may be made conditional on the attainment of a prescribed age. Such age shall not be higher than the age prescribed for old-age benefit.
3. No requirement as to age may be made if the widow:
  - (a) is invalid, as may be prescribed; or
  - (b) is caring for a dependent child of the deceased.
4. In order that a widow who is without a child may be entitled to a survivors' benefit, a minimum duration of marriage may be required.

### **Article 22**

1. The persons protected shall comprise:
  - (a) the wives, children and, as may be prescribed, other dependants of all breadwinners who were employees or apprentices; or
  - (b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of the economically active population, which classes constitute not less than 75 per cent. of the whole economically active population; or
  - (c) all widows, all children and all other prescribed dependants who have lost their breadwinner, who are residents and, as appropriate, whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the provisions of Article 28.
2. Where a declaration made in virtue of Article 4 is in force, the persons protected shall comprise:
  - (a) the wives, children and, as may be prescribed, other dependants of breadwinners, in prescribed classes of employees, which classes constitute not less than 25 per cent. of all employees; or

- (b) the wives, children and, as may be prescribed, other dependants of breadwinners in prescribed classes of employees in industrial undertakings, which classes constitute not less than 50 per cent. of all employees in industrial undertakings.

**Article 23**

The survivors' benefit shall be a periodical payment calculated as follows:

- (a) where employees or classes of the economically active population are protected, in such a manner as to comply either with the requirements of Article 26 or with the requirements of Article 27;
- (b) where all residents or all residents whose means during the contingency do not exceed prescribed limits are protected, in such a manner as to comply with the requirements of Article 28.

**Article 24**

1. The benefit specified in Article 23 shall, in a contingency covered, be secured at least:

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period which may be 15 years of contribution or employment, or ten years of residence: Provided that, for a benefit payable to a widow, the completion of a prescribed qualifying period of residence by such widow may be required instead; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age, the prescribed yearly average number or the yearly number of contributions has been paid.

2. Where the survivors' benefit is conditional upon a minimum period of contribution or employment, a reduced benefit shall be secured at least:

- (a) to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of five years of contribution or employment; or
- (b) where, in principle, the wives and children of all economically active persons are protected, to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of three years of contribution and in respect of whose breadwinner, while he was of working age,

half of the yearly average number or of the yearly number of contributions prescribed in accordance with subparagraph (b) of paragraph 1 of this Article has been paid.

3. The requirements of paragraph 1 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V but at a percentage of ten points lower than shown in the Schedule appended to that Part for the standard beneficiary concerned is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, five years of contribution, employment or residence.

4. A proportional reduction of the percentage indicated in the Schedule appended to Part V may be effected where the qualifying period for the benefit corresponding to the reduced percentage exceeds five years of contribution, employment or residence but is less than 15 years of contribution or employment or ten years of residence; if such qualifying period is one of contribution or employment, a reduced benefit shall be payable in conformity with paragraph 2 of this Article.

5. The requirements of paragraphs 1 and 2 of this Article shall be deemed to be satisfied where a benefit calculated in conformity with the requirements of Part V is secured at least to a person protected whose breadwinner has completed, in accordance with prescribed rules, a qualifying period of contribution or employment which shall not be more than five years at a prescribed minimum age and may rise with advancing age to not more than a prescribed maximum number of years.

**Article 25**

The benefit specified in Articles 23 and 24 shall be granted throughout the contingency.

**PART V. STANDARDS TO BE COMPLIED WITH BY PERIODICAL PAYMENTS**

**Article 26**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the previous earnings of the beneficiary or his breadwinner and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary or his breadwinner shall be calculated according to prescribed rules, and, where the persons protected or their breadwinners are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary or his breadwinner are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary or his breadwinner, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be:

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent. of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- (d) a person whose earnings are equal to 125 per cent. of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose, the international standard industrial classification of all economic activities, adopted by the Economic and Social Council of the United Nations at its

Seventh Session on 27 August 1948, as amended up to 1958 and reproduced in the

Annex to this Convention, or such classification as at any time further amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

#### **Article 27**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain, in respect of the contingency in question, for the standard beneficiary indicated in the Schedule appended to this Part, at least the percentage indicated therein of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be:

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question, or of the breadwinners of the persons protected, as the case may be, in the division comprising the largest number of such persons or breadwinners; for this purpose the international standard industrial classification of all economic activities, adopted by the

Economic and Social Council of the United Nations at its

Seventh Session on 27 August 1948, as amended up to 1958 and reproduced in the Annex to this Convention, or such classification as at any time further amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

**Article 28**

In the case of a periodical payment to which this Article applies:

- (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
- (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;

(c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 27;

(d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of benefits paid under the Part concerned exceeds by at least 30 per cent. the total amounts of benefits which would be obtained by applying the provisions of Article 27 and the provisions of:

- (i) Article 9, paragraph 1, subparagraph (b) for Part II;
- (ii) Article 16, paragraph 1, subparagraph (b) for Part III;
- (iii) Article 22, paragraph 1, subparagraph (b) for Part IV.

**Article 29**

1. The rates of cash benefits currently payable pursuant to Article 10, Article 17 and Article 23 shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living.

2. Each Member shall include the findings of such reviews in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation, and shall specify any action taken.

**SCHEDULE TO PART V: PERIODICAL PAYMENTS TO STANDARD BENEFICIARIES**

Part	Contingency	Standard beneficiary	Percentage
II	Invalidity	Man with wife and two children	50
III	Old age	Man with wife of pensionable age	45
IV	Death of breadwinner	Widow with two children	45

**PART VI. COMMON PROVISIONS**

**Article 30**

National legislation shall provide for the maintenance of rights in course of acquisition in respect of contributory invalidity, old-age and survivors' benefits under prescribed conditions.

**Article 31**

1. The payment of invalidity, old-age or survivors' benefit may be suspended, under prescribed conditions, where the beneficiary is engaged in gainful activity.

2. A contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary exceed a prescribed amount; the reduction in benefit shall not exceed the earnings.

3. A non-contributory invalidity, old-age or survivors' benefit may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

**Article 32**

1. A benefit to which a person protected would otherwise be entitled in compliance with

any of Parts II to IV of this Convention may be suspended to such extent as may be prescribed:

- (a) as long as the person concerned is absent from the territory of the Member, except, under prescribed conditions, in the case of a contributory benefit;
  - (b) as long as the person concerned is maintained at public expense or at the expense of a social security institution or service;
  - (c) where the person concerned has made a fraudulent claim;
  - (d) where the contingency has been caused by a criminal offence committed by the person concerned;
  - (e) where the contingency has been wilfully caused by the serious misconduct of the person concerned;
  - (f) in appropriate cases, where the person concerned, without good reason, neglects to make use of the medical or rehabilitation services placed at his disposal or fails to comply with rules prescribed for verifying the occurrence or continuance of the contingency or for the conduct of beneficiaries; and
  - (g) in the case of survivors' benefit for a widow, as long as she is living with a man as his wife.
2. In the case and within the limits prescribed, part of the benefit otherwise due shall be paid to the dependants of the person concerned.

#### **Article 33**

1. If a person protected is or would otherwise be eligible simultaneously for more than one of the benefits provided for in this Convention, these benefits may be reduced under prescribed conditions and within prescribed limits; the person protected shall receive in total at least the amount of the most favourable benefit.

2. If a person protected is or would otherwise be eligible for a benefit provided for in this Convention and is in receipt of another social security cash benefit for the same contingency, other than a family benefit, the benefit under this Convention may be reduced or suspended under prescribed conditions and within prescribed limits, subject to the part of the benefit which is reduced or suspended not exceeding the other benefit.

#### **Article 34**

1. Every claimant shall have a right of appeal in the case of refusal of benefit or complaint as to its quality or quantity.

2. Procedures shall be prescribed which permit the claimant to be represented or assisted, where appropriate, by a qualified person of his choice or by a delegate of an organisation representative of persons protected.

#### **Article 35**

1. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

2. Each Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.

#### **Article 36**

Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible to a legislature, representatives of the persons protected shall participate in the management under prescribed conditions; national legislation may likewise decide as to the participation of representatives of employers and of the public authorities.

### **PART VII. MISCELLANEOUS PROVISIONS**

#### **Article 37**

Any Member whose legislation protects employees may, as necessary, exclude from the application of this convention:

- (a) persons whose employment is of a casual nature;
- (b) members of the employer's family living in his house, in respect of their work for him;
- (c) other categories of employees, which shall not exceed in number 10 per cent. of all employees other than those excluded under subparagraphs (a) and (b) of this Article.

#### **Article 38**

1. Any Member whose legislation protects employees may, by a declaration accompanying its ratification, temporarily exclude from the application of this Convention the employees in the sector comprising agricultural occupations who are not yet protected by its legislation at the time of the ratification.

2. Each Member which has made a declaration under paragraph 1 of this Article shall indicate in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation to what extent effect is given and what effect is proposed to be given to the

provisions of the Convention in respect of the employees in the sector comprising agricultural occupations and any progress which may have been made with a view to the application of the Convention to such employees or, where there is no change to report, furnish all the appropriate explanations.

3. Each Member which has made a declaration under paragraph 1 of this Article shall increase the number of employees protected in the agricultural sector to the extent and with the speed that the circumstances permit.

**Article 39**

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

- (a) seafarers, including sea fishermen,
- (b) public servants,

where these categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.

2. Where a declaration under paragraph 1 of this Article is in force, the Member may exclude the persons belonging to the category or categories excluded from the application of the Convention from the number of persons taken into account when calculating the percentages specified in paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 9; paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 16; paragraph 1, subparagraph (b), and paragraph 2, subparagraph (b), of Article 22; and subparagraph (c) of Article 37.

3. Any Member which has made a declaration under paragraph 1 of this Article may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of this Convention in respect of a category or categories excluded at the time of its ratification.

**Article 40**

If a person protected is entitled, under national legislation, in case of death of the breadwinner, to periodical benefits other than a survivors' benefit, such periodical benefits may be assimilated to the survivors' benefit for the application of this Convention.

**Article 41**

1. A Member which:
- (a) has accepted the obligations of this Convention in respect of Parts II, III and IV, and

- (b) covers a percentage of the economically active population which is at least ten points higher than that required by Article 9, paragraph 1, subparagraph (b), Article 16, paragraph 1, subparagraph (b), and Article 22, paragraph 1, subparagraph (b), or complies with Article 9, paragraph 1, subparagraph (c), Article 16, paragraph 1, subparagraph (c), and Article 22, paragraph 1, subparagraph (c), and
- (c) secures in respect of at least two of the contingencies covered by Parts II, III and IV benefits of an amount corresponding to a percentage at least five points higher than the percentages specified in the Schedule appended to Part V,

may take advantage of the provisions of the following paragraph.

2. Such Member may:

- (a) substitute, for the purposes of Article 11, paragraph 2, subparagraph (b), and Article 24, paragraph 2, subparagraph (b), a period of five years for the period of three years specified therein;
- (b) determine the beneficiaries of survivors' benefits in a manner which is different from that required by Article 21, but which ensures that the total number of beneficiaries does not fall short of the number of beneficiaries which would result from the application of Article 21.

3. Each Member which has taken advantage of the provisions of paragraph 2 of this Article shall indicate in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation the position of its law and practice as regards the matters dealt with in that paragraph and any progress made towards complete application of the terms of the Convention.

**Article 42**

1. A Member which:
- (a) has accepted the obligations of this Convention in respect of Parts II, III and IV, and
  - (b) covers a percentage of the economically active population which is at least ten points higher than that required by Article 9, paragraph 1, subparagraph (b), Article 16, paragraph 1, subparagraph (b), and Article 22, paragraph 1, subparagraph (b), or complies with Article 9, paragraph 1, subparagraph (c), Article 16, paragraph 1, subparagraph (c), and Article 22, paragraph 1, subparagraph (c),

may derogate from particular provisions of Parts II, III and IV: on condition that the total

amount of benefits paid under the Part concerned shall be at least equal to 110 per cent. of the total amount which would be obtained by applying all the provisions of that Part.

2. Each Member which has made such a derogation shall indicate in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation the position of its law and practice as regards such derogation and any progress made towards complete application of the terms of the Convention.

#### **Article 43**

This Convention shall not apply to:

- (a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned;
- (b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

#### **Article 44**

1. This Convention revises, on the terms set forth in this Article, the Old-Age Insurance (Industry, etc.) Convention 1933, the Old-Age Insurance (Agriculture) Convention, 1933, the Invalidity Insurance (Industry, etc.) Convention, 1933, the Invalidity Insurance (Agriculture) Convention, 1933, the Survivors' Insurance (Industry, etc.) Convention, 1933, and the Survivors' Insurance (Agriculture) Convention, 1933.

2. The legal effect of the acceptance of the obligations of this Convention by a Member which is a party to one or more of the Conventions which have been revised, when this Convention shall have come into force, shall be as follows for that Member:

- (a) acceptance of the obligations of Part II of the Convention shall, ipso jure, involve the immediate denunciation of the Invalidity Insurance (Industry, etc.) Convention, 1933, and the Invalidity Insurance (Agriculture) Convention, 1933;
- (b) acceptance of the obligations of Part III of the Convention shall, ipso jure, involve the immediate denunciation of the Old-Age Insurance (Industry, etc.) Convention, 1933, and the Old-Age Insurance (Agriculture) Convention, 1933;
- (c) acceptance of the obligations of Part IV of the Convention shall, ipso jure, involve the immediate denunciation of the Survivors' Insurance (Industry, etc.) Convention,

1933, and the Survivors' Insurance (Agriculture) Convention, 1933.

#### **Article 45**

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

#### **Article 46**

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

### **PART VIII. FINAL PROVISIONS**

#### **Article 47**

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

**Article 48**

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 49**

1. A Member which has ratified this Convention may, after the expiration of ten years from the date on which the Convention first comes into force, denounce the Convention or any one or more of Parts II to IV thereof 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 or any one or more of Parts II to IV thereof at the expiration of each period of ten years under the terms provided for in this Article.

**Article 50**

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 51**

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 52**

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 53**

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 49 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 54**

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

**ANNEX: International standard industrial classification of all economic activities (revised up to 1969)**

## C130 – Medical Care and Sickness Benefits Convention, 1969

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-third Session on 4 June 1969, and

Having decided upon the adoption of certain proposals with regard to the revision of the Sickness Insurance (Industry) Convention, 1927, and the Sickness Insurance (Agriculture) Convention, 1927, 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-fifth day of June of the year one thousand nine hundred and sixty-nine the following Convention, which may be cited as the Medical Care and Sickness Benefits Convention, 1969:

### PART I. GENERAL PROVISIONS

#### Article 1

In this Convention:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **industrial undertaking** includes all undertakings in the following branches of economic activity: mining and quarrying; manufacturing; construction; electricity, gas and water; and transport, storage and communication;
- (d) the term **residence** means ordinary residence in the territory of the Member and the term **resident** means a person ordinarily resident in the territory of the Member;
- (e) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;
- (f) the term **wife** means a wife who is dependent on her husband;
- (g) the term **child** covers:
  - (i) a child under school-leaving age or under 15 years of age, whichever is the higher: Provided that a Member which has made a declaration under Article 2 may, while such declaration is in force, apply the Convention as if the term covered a child under school-leaving age or under 15 years of age; and
  - (ii) a child under a prescribed age higher than that specified in clause (i) of this subparagraph and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions: Provided that this requirement shall be deemed to be met where national legislation defines the term so as to cover any child under an age appreciably higher than that specified in clause (i) of this subparagraph;
- (h) the term **standard beneficiary** means a man with a wife and two children;
- (i) the term **qualifying period** means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed;
- (j) the term **sickness** means any morbid condition, whatever its cause;
- (k) the term **medical care** includes allied benefits.

#### Article 2

1. A Member whose economy and medical facilities are insufficiently developed may avail itself, by a declaration accompanying its ratification, of the temporary exceptions provided for in Article 1, subparagraph (g), clause (i); Article 11; Article 14; Article 20; and Article 26, paragraph 2. Any such declaration shall state the reason for such exceptions.

2. Each Member which has made a declaration under paragraph 1 of this Article shall include in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

3. Each Member which has made a declaration under paragraph 1 of this Article shall, as appropriate to the terms of such declaration and as circumstances permit--

- (a) increase the number of persons protected;
- (b) extend the range of medical care provided;
- (c) extend the duration of sickness benefit.

**Article 3**

1. Any Member whose legislation protects employees may, by a declaration accompanying its ratification, temporarily exclude from the application of this Convention the employees in the sector comprising agricultural occupations who, at the time of the ratification, are not yet protected by legislation which is in conformity with the standards of this Convention.

2. Each Member which has made a declaration under paragraph 1 of this Article shall indicate in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation to what extent effect is given and what effect is proposed to be given to the provisions of the Convention in respect of the employees in the sector comprising agricultural occupations and any progress which may have been made with a view to the application of the Convention to such employees or, where there is no change to report, shall furnish all the appropriate explanations.

3. Each Member which has made a declaration under paragraph 1 of this Article shall increase the number of employees protected in the sector comprising agricultural occupations to the extent and with the speed that the circumstances permit.

**Article 4**

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

- (a) seafarers, including sea fishermen,
- (b) public servants,

where these categories are protected by special schemes which provide in the aggregate benefits at least equivalent to those required by this Convention.

2. Where a declaration under paragraph 1 of this Article is in force, the Member may--

- (a) exclude the persons belonging to the category or categories excluded from the application of the Convention from the number of persons taken into account when calculating the percentages specified in Article 5, subparagraph (c); Article 10, subparagraph (b); Article 11; Article 19, subparagraph (b); and Article 20;
- (b) exclude the persons belonging to the category or categories excluded from the application of the Convention, as well as the wives and children of such persons, from the number of persons taken into

account when calculating the percentage specified in Article 10, subparagraph (c).

3. Any Member which has made a declaration under paragraph 1 of this Article may subsequently notify the Director-General of the International Labour Office that it accepts the obligations of this Convention in respect of a category or categories excluded at the time of its ratification.

**Article 5**

Any Member whose legislation protects employees may, as necessary, exclude from the application of this Convention--

- (a) persons whose employment is of a casual nature;
- (b) members of the employer's family living in his house, in respect of their work for him;
- (c) other categories of employees, which shall not exceed in number 10 per cent of all employees other than those excluded under subparagraphs (a) and (b) of this Article.

**Article 6**

For the purpose of compliance with this Convention, a Member may take account of protection effected by means of insurance which, although not made compulsory by its legislation at the time of ratification for the persons to be protected:

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of employers and workers;
- (b) covers a substantial proportion of the persons whose earnings do not exceed those of the skilled manual male employee defined in Article 22, paragraph 6; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the provisions of the Convention.

**Article 7**

The contingencies covered shall include--

- (a) need for medical care of a curative nature and, under prescribed conditions, need for medical care of a preventive nature;
- (b) incapacity for work resulting from sickness and involving suspension of earnings, as defined by national legislation.

**PART II. MEDICAL CARE**

**Article 8**

Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of medical care of a curative or preventive nature in respect of the contingency referred to in subparagraph (a) of Article 7.

**Article 9**

The medical care referred to in Article 8 shall be afforded with a view to maintaining, restoring or improving the health of the person protected and his ability to work and to attend to his personal needs.

**Article 10**

The persons protected in respect of the contingency referred to in subparagraph (a) of Article 7 shall comprise:

- (a) all employees, including apprentices, and the wives and children of such employees; or
- (b) prescribed classes of the economically active population, constituting not less than 75 per cent of the whole economically active population, and the wives and children of persons in the said classes; or
- (c) prescribed classes of residents constituting not less than 75 per cent of all residents.

**Article 11**

Where a declaration made in virtue of Article 2 is in force, the persons protected in respect of the contingency referred to in subparagraph (a) of Article 7 shall comprise:

- (a) prescribed classes of employees, constituting not less than 25 per cent of all employees, and the wives and children of employees in the said classes; or
- (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent of all employees in industrial undertakings, and the wives and children of employees in the said classes.

**Article 12**

Persons who are in receipt of a social security benefit for invalidity, old age, death of the breadwinner or unemployment, and, where appropriate, the wives and children of such persons, shall continue to be protected, under prescribed conditions, in respect of the contingency referred to in subparagraph (a) of Article 7.

**Article 13**

The medical care referred to in Article 8 shall comprise at least:

- (a) general practitioner care, including domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and such specialist care as may be available outside hospitals;
- (c) the necessary pharmaceutical supplies on prescription by medical or other qualified practitioners;

- (d) hospitalisation where necessary;
- (e) dental care, as prescribed; and
- (f) medical rehabilitation, including the supply, maintenance and renewal of prosthetic and orthopaedic appliances, as prescribed.

**Article 14**

Where a declaration made in virtue of Article 2 is in force, the medical care referred to in Article 8 shall comprise at least--

- (a) general practitioner care, including, wherever possible, domiciliary visiting;
- (b) specialist care at hospitals for in-patients and out-patients, and, wherever possible, such specialist care as may be available outside hospitals;
- (c) the necessary pharmaceutical supplies on prescription by medical or other qualified practitioners; and
- (d) hospitalisation where necessary.

**Article 15**

Where the legislation of a Member makes the right to the medical care referred to in Article 8 conditional upon the fulfilment of a qualifying period by the person protected or by his breadwinner, the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected.

**Article 16**

1. The medical care referred to in Article 8 shall be provided throughout the contingency.
2. Where a beneficiary ceases to belong to the categories of persons protected, further entitlement to medical care for a case of sickness which started while he belonged to the said categories may be limited to a prescribed period which shall not be less than 26 weeks: Provided that the medical care shall not cease while the beneficiary continues to receive a sickness benefit.
3. Notwithstanding the provisions of paragraph 2 of this Article, the duration of medical care shall be extended for prescribed diseases recognised as entailing prolonged care.

**Article 17**

Where the legislation of a Member requires the beneficiary or his breadwinner to share in the cost of the medical care referred to in Article 8, the rules concerning such cost sharing shall be so designed as to avoid hardship and not to prejudice the effectiveness of medical and social protection.

### PART III. SICKNESS BENEFIT

#### **Article 18**

Each Member shall secure to the persons protected, subject to prescribed conditions, the provision of sickness benefit in respect of the contingency referred to in subparagraph (b) of Article 7.

#### **Article 19**

The persons protected in respect of the contingency specified in subparagraph (b) of Article 7 shall comprise:

- (a) all employees, including apprentices; or
- (b) prescribed classes of the economically active population, constituting not less than 75 per cent of the whole economically active population; or
- (c) all residents whose means during the contingency do not exceed limits prescribed in such a manner as to comply with the requirements of Article 24.

#### **Article 20**

Where a declaration made in virtue of Article 2 is in force, the persons protected in respect of the contingency referred to in subparagraph (b) of Article 7 shall comprise:

- (a) prescribed classes of employees, constituting not less than 25 per cent of all employees; or
- (b) prescribed classes of employees in industrial undertakings, constituting not less than 50 per cent of all employees in industrial undertakings.

#### **Article 21**

The sickness benefit referred to in Article 18 shall be a periodical payment and shall:

- (a) where employees or classes of the economically active population are protected, be calculated in such a manner as to comply either with the requirements of Article 22 or with the requirements of Article 23;
- (b) where all residents whose means during the contingency do not exceed prescribed limits are protected, be calculated in such a manner as to comply with the requirements of Article 24.

#### **Article 22**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain for the standard beneficiary, in respect of the contingency referred to in subparagraph (b) of Article 7, at least 60 per cent of the total of the previous earnings of the beneficiary and of the amount

of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The previous earnings of the beneficiary shall be calculated according to prescribed rules, and, where the persons protected are arranged in classes according to their earnings, their previous earnings may be calculated from the basic earnings of the classes to which they belonged.

3. A maximum limit may be prescribed for the rate of the benefit or for the earnings taken into account for the calculation of the benefit, provided that the maximum limit is fixed in such a way that the provisions of paragraph 1 of this Article are complied with where the previous earnings of the beneficiary are equal to or lower than the wage of a skilled manual male employee.

4. The previous earnings of the beneficiary, the wage of the skilled manual male employee, the benefit and any family allowances shall be calculated on the same time basis.

5. For the other beneficiaries the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

6. For the purpose of this Article, a skilled manual male employee shall be:

- (a) a fitter or turner in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of skilled labour selected in accordance with the provisions of the following paragraph; or
- (c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- (d) a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected.

7. The person deemed typical of skilled labour for the purposes of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency referred to in subparagraph (b) of Article 7 in the division comprising the largest number of such persons; for this purpose, the International Standard Industrial Classification of All Economic Activities adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended up to 1968 and reproduced in the Annex to this

Convention, or such classification as at any time further amended, shall be used.

8. Where the rate of benefit varies by region, the skilled manual male employee may be determined for each region in accordance with paragraphs 6 and 7 of this Article.

9. The wage of the skilled manual male employee shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances if any; where such rates differ by region but paragraph 8 of this Article is not applied, the median rate shall be taken.

### **Article 23**

1. In the case of a periodical payment to which this Article applies, the rate of the benefit, increased by the amount of any family allowances payable during the contingency, shall be such as to attain for the standard beneficiary, in respect of the contingency referred to in subparagraph (b) of Article 7, at least 60 per cent of the total of the wage of an ordinary adult male labourer and of the amount of any family allowances payable to a person protected with the same family responsibilities as the standard beneficiary.

2. The wage of the ordinary adult male labourer, the benefit and any family allowances shall be calculated on the same time basis.

3. For the other beneficiaries, the benefit shall bear a reasonable relation to the benefit for the standard beneficiary.

4. For the purpose of this Article, the ordinary adult male labourer shall be:

- (a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- (b) a person deemed typical of unskilled labour selected in accordance with the provisions of the following paragraph.

5. The person deemed typical of unskilled labour for the purpose of subparagraph (b) of the preceding paragraph shall be a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency referred to in subparagraph (b) of Article 7 in the division comprising the largest number of such persons; for this purpose, the International Standard Industrial Classification of All Economic Activities adopted by the Economic and Social Council of the United Nations at its Seventh Session on 27 August 1948, as amended up to 1968 and reproduced in the Annex to this

Convention, or such classification as at any time further amended, shall be used.

6. Where the rate of benefit varies by region, the ordinary adult male labourer may be determined for each region in accordance with paragraphs 4 and 5 of this Article.

7. The wage of the ordinary adult male labourer shall be determined on the basis of the rates of wages for normal hours of work fixed by collective agreements, by or in pursuance of national legislation, where applicable, or by custom, including cost-of-living allowances, if any; where such rates differ by region but paragraph 6 of this Article is not applied, the median rate shall be taken.

### **Article 24**

In the case of a periodical payment to which this Article applies--

- (a) the rate of the benefit shall be determined according to a prescribed scale or a scale fixed by the competent public authority in conformity with prescribed rules;
- (b) such rate may be reduced only to the extent by which the other means of the family of the beneficiary exceed prescribed substantial amounts or substantial amounts fixed by the competent public authority in conformity with prescribed rules;
- (c) the total of the benefit and any other means, after deduction of the substantial amounts referred to in subparagraph (b), shall be sufficient to maintain the family of the beneficiary in health and decency, and shall be not less than the corresponding benefit calculated in accordance with the requirements of Article 23;
- (d) the provisions of subparagraph (c) shall be deemed to be satisfied if the total amount of sickness benefits paid under this Convention exceeds by at least 30 per cent the total amount of benefits which would be obtained by applying the provisions of Article 23 and the provisions of subparagraph (b) of Article 19.

### **Article 25**

Where the legislation of a Member makes the right to the sickness benefit referred to in Article 18 conditional upon the fulfilment of a qualifying period by the person protected, the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected.

### **Article 26**

1. The sickness benefit referred to in Article 18 shall be granted throughout the

contingency: Provided that the grant of benefit may be limited to not less than 52 weeks in each case of incapacity, as prescribed.

2. Where a declaration made in virtue of Article 2 is in force, the grant of the sickness benefit referred to in Article 18 may be limited to not less than 26 weeks in each case of incapacity, as prescribed.

3. Where the legislation of a Member provides that sickness benefit is not payable for an initial period of suspension of earnings, such period shall not exceed three days.

**Article 27**

1. In the case of the death of a person who was in receipt of, or qualified for, the sickness benefit referred to in Article 18, a funeral benefit shall, under prescribed conditions, be paid to his survivors, to any other dependants or to the person who has borne the expense of the funeral.

2. A member may derogate from the provision of paragraph 1 of this Article where:

- (a) it has accepted the obligations of Part IV of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
- (b) it provides in its legislation for cash sickness benefit at a rate of not less than 80 per cent of the earnings of the persons protected; and
- (c) the majority of persons protected are covered by voluntary insurance which is supervised by the public authorities and which provides a funeral grant.

**PART IV. COMMON PROVISIONS**

**Article 28**

1. A benefit to which a person protected would otherwise be entitled in compliance with this Convention may be suspended to such extent as may be prescribed--

- (a) as long as the person concerned is absent from the territory of the Member;
- (b) as long as the person concerned is being indemnified for the contingency by a third party, to the extent of the indemnity;
- (c) where the person concerned has made a fraudulent claim;
- (d) where the contingency has been caused by a criminal offence committed by the person concerned;
- (e) where the contingency has been caused by the serious and wilful misconduct of the person concerned;
- (f) where the person concerned, without good cause, neglects to make use of the medical care or the rehabilitation services placed at his disposal, or fails to comply with rules prescribed for verifying the

occurrence or continuance of the contingency or for the conduct of beneficiaries;

- (g) in the case of the sickness benefit referred to in Article 18, as long as the person concerned is maintained at public expense or at the expense of a social security institution or service; and
- (h) in the case of the sickness benefit referred to in Article 18, as long as the person concerned is in receipt of another social security cash benefit, other than a family benefit, subject to the part of the benefit which is suspended not exceeding the other benefit.

2. In the cases and within the limits prescribed, part of the benefit otherwise due shall be paid to the dependants of the person concerned.

**Article 29**

1. Every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity.

2. Where in the application of this Convention a government department responsible to a legislature is entrusted with the administration of medical care, the right of appeal provided for in paragraph 1 of this Article may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

**Article 30**

1. Each Member shall accept general responsibility for the due provision of the benefits provided in compliance with this Convention and shall take all measures required for this purpose.

2. Each Member shall accept general responsibility for the proper administration of the institutions and services concerned in the application of this Convention.

**Article 31**

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

- (a) representatives of the persons protected shall participate in the management under prescribed conditions;
- (b) national legislation shall, where appropriate, provide for the participation of representatives of employers;
- (c) national legislation may likewise decide as to the participation of representatives of the public authorities.

**Article 32**

Each Member shall, within its territory, assure to non-nationals who normally reside or work there equality of treatment with its own nationals as regards the right to the benefits provided for in this Convention.

**Article 33**

1. A Member:

- (a) which has accepted the obligations of this Convention without availing itself of the exceptions and exclusions provided for in Article 2 and Article 3,
- (b) which provides over-all higher benefits than those provided in this Convention and whose total relevant expenditure on medical care and sickness benefits amounts to at least 4 per cent of its national income, and
- (c) which satisfies at least two of the three following conditions:
  - (i) it covers a percentage of the economically active population which is at least ten points higher than the percentage required by Article 10, subparagraph (b), and by Article 19, subparagraph (b), or a percentage of all residents which is at least ten points higher than the percentage required by Article 10, subparagraph (c),
  - (ii) it provides medical care of a curative and preventive nature of an appreciably higher standard than that prescribed by Article 13,
  - (iii) it provides sickness benefit corresponding to a percentage at least ten points higher than is required by Articles 22 and 23,

may, after consultation with the most representative organisations of employers and workers, where such exist, make temporary derogations from particular provisions of Parts II and III of this Convention on condition that such derogation shall neither fundamentally reduce nor impair the essential guarantees of this Convention.

2. Each Member which has made such a derogation shall indicate in its reports upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation the position of its law and practice as regards such derogation and any progress made towards complete application of the terms of the Convention.

**Article 34**

This Convention shall not apply to:

- (a) contingencies which occurred before the coming into force of the Convention for the Member concerned;
- (b) benefits in contingencies occurring after the coming into force of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date.

**PART V. FINAL PROVISIONS**

**Article 35**

This Convention revises the Sickness Insurance (Industry) Convention, 1927, and the Sickness Insurance (Agriculture) Convention, 1927.

**Article 36**

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

**Article 37**

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

**Article 38**

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

**Article 39**

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

2. It shall come into force twelve months after the date on which the ratifications of two

Members have been registered with the Director-General.

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

**Article 40**

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 41**

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 42**

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 43**

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 44**

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 40 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 45**

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

**ANNEX: International standard industrial classification of all economic activities (revised up to 1969)**

## C157 – Maintenance of Social Security Rights Convention, 1982

### Preamble

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-eighth Session on 2 June 1982, and

Recalling the principles established by the Equality of Treatment (Social Security) Convention, 1962, which relate not only to

equality of treatment but also to the maintenance of acquired rights and of rights in course of acquisition, and

Considering it necessary to provide for the application of the principles of the maintenance of rights in course of acquisition and of acquired rights in respect of all the branches of social security covered by the Social Security (Minimum Standards) Convention, 1952, and

Having decided upon the adoption of certain proposals with regard to maintenance of migrant workers' rights in social security (revision of Convention No. 48), 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-first day of June of the year one thousand nine hundred and eighty-two the following Convention, which may be cited as the Maintenance of Social Security Rights Convention, 1982:

## PART I. GENERAL PROVISIONS

### Article 1

In this Convention:

- (a) the term **Member** means any Member of the International Labour Organisation that is bound by the Convention;
- (b) the term **legislation** includes any social security rules as well as laws and regulations;
- (c) the term **competent Member** means the Member under whose legislation the person concerned can claim benefit;
- (d) the term **institution** means the body or authority directly responsible for applying all or part of the legislation of a Member;
- (e) the term **refugee** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967;
- (f) the term **stateless person** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;
- (g) the term **members of the family** means persons defined or recognised as such or as members of the household by the legislation under which benefits are awarded or provided, as appropriate, or persons determined by mutual agreement between the Members concerned; where persons are defined or recognised as members of the family or as members of the household under the relevant legislation only on the condition that they are living with the person concerned, this condition shall be deemed to be satisfied in respect of persons who obtain their main support from the person concerned;
- (h) the term **survivors** means persons defined or recognised as such by the legislation under which benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they

were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;

- (i) the term **residence** means ordinary residence;
- (j) the term **temporary residence** means a temporary stay;
- (k) the term **periods of insurance** means periods of contribution, employment, occupational activity or residence which are defined or recognised as periods of insurance by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of insurance;
- (l) the terms **periods of employment** and **periods of occupational activity** mean periods defined or recognised as such by the legislation under which they were completed and such other periods as are regarded by that legislation as equivalent to periods of employment or periods of occupational activity respectively;
- (m) the term **periods of residence** means periods of residence defined or recognised as such by the legislation under which they were completed;
- (n) the term **non-contributory** applies to benefits the award of which does not depend on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity, and to any scheme which exclusively awards such benefits;
- (o) the term **benefits awarded under transitional arrangements** covers benefits awarded to persons who are over a given age on the date of entry into force of the legislation applicable, as well as benefits awarded, as a transitional measure, in consideration of events that have occurred or periods that have been completed outside the current frontiers of the territory of a Member.

### Article 2

1. Subject to the provisions of paragraph 1 and of paragraph 3, subparagraph (a), of Article 4, this Convention applies to those of the following branches of social security for which a Member has legislation in force:

- (a) medical care;
- (b) sickness benefit;
- (c) maternity benefit;
- (d) invalidity benefit;
- (e) old-age benefit;
- (f) survivors' benefit;

(g) employment injury benefit, namely benefit in respect of occupational injuries and diseases;

(h) unemployment benefit; and

(i) family benefit.

2. This Convention applies to rehabilitation benefits provided by legislation concerning any of the branches of social security referred to in paragraph 1 of this Article.

3. This Convention applies to all general and special social security schemes, both contributory and non-contributory, as well as to schemes consisting of obligations imposed on employers by legislation in respect of any branch of social security referred to in paragraph 1 of this Article.

4. This Convention does not apply to special schemes for civil servants, to special schemes for war victims or to social or medical assistance schemes.

### **Article 3**

1. Subject to the provisions of paragraph 1 and paragraph 3, subparagraph (b), of Article 4 and of paragraph 1 of Article 9, this Convention applies to persons who are or have been subject to the legislation of one or more Members, as well as to the members of their families and to their survivors, in all cases in which the international system for the maintenance of rights established by this Convention requires that account be taken of the legislation of a Member other than the Member in whose territory the persons concerned are resident or temporarily resident.

2. This Convention does not require any Member to apply its provisions to persons who, by virtue of international instruments, are exempted from the application of the legislation of that Member.

### **Article 4**

1. Members may give effect to their obligations under the terms of Parts II to VI of this Convention by bilateral or multilateral instruments giving effect to these obligations, under conditions to be determined by mutual agreement between the Members concerned.

2. Notwithstanding the provisions of paragraph 1 of this Article, the provisions of paragraph 4 of Article 7, of paragraphs 2 and 3 of Article 8, of paragraphs 1 and 4 of Article 9, of Article 11, of Article 12, of Article 14 and of paragraph 3 of Article 18 of this Convention shall be immediately applied by each Member as from the coming into force of this Convention for that Member.

3. The instruments referred to in paragraph 1 of this Article shall specify in particular-

(a) the branches of social security to which they apply, having regard to the requirement of reciprocity referred to in Articles 6 and 10 of this Convention; these branches shall, where the Members concerned have legislation covering them, comprise at least invalidity benefits, old-age benefits, survivors' benefits and pensions in respect of employment injuries, including death grants, as well as, subject to the provisions of paragraph 1 of Article 10 of this Convention, medical care, sickness benefits, maternity benefits and benefits in respect of employment injuries, other than pensions and death grants;

(b) the categories of persons to which they are applicable; these categories shall comprise at least employees (including, as appropriate, frontier workers and seasonal workers), as well as the members of their families and their survivors, who are nationals of one of the Members concerned or who are refugees or stateless persons resident in the territory of one of these Members;

(c) the arrangements for the reimbursement of the benefits provided and other costs borne by the institution of one Member on behalf of the institution of another Member unless it has been agreed that there shall be no reimbursement;

(d) the rules to avoid undue plurality of contributions or other liabilities or of benefits.

## **PART II. APPLICABLE LEGISLATION**

### **Article 5**

1. The legislation applicable in respect of the persons covered by this Convention shall be determined by mutual agreement between the Members concerned, with a view to avoiding conflicts of laws and the undesirable consequences that might ensue for those concerned either through lack of protection, or as a result of undue plurality of contributions or other liabilities or of benefits, in accordance with the following rules:

(a) employees who are normally employed in the territory of a Member shall be subject to the legislation of that Member, even if they are resident in the territory of another Member or if the undertaking which employs them has its registered office, or their employer has his place of residence, in the territory of another Member;

(b) self-employed persons who normally engage in their occupation in the territory of a Member shall be subject to the legislation of that Member, even if they are resident in the territory of another Member;

- (c) employees and self-employed persons sailing on board a ship flying the flag of a Member shall be subject to the legislation of that Member even if they are resident in the territory of another Member or if the undertaking which employs them has its registered office, or their employer has his place of residence, in the territory of another Member;
- (d) persons who are not part of the economically active population shall be subject to the legislation of the Member in whose territory they are resident, in so far as they are not protected in virtue of subparagraphs (a) to (c) of this paragraph.

2. Notwithstanding the provisions of subparagraphs (a) to (c) of paragraph 1 of this Article, Members concerned may agree that certain categories of persons, in particular self-employed persons, shall be subject to the legislation of the Member in whose territory they are resident.

3. Members concerned may determine by mutual agreement other exceptions to the rules set forth in paragraph 1 of this Article, in the interest of the persons concerned.

### **PART III. MAINTENANCE OF RIGHTS IN COURSE OF ACQUISITION**

#### **Article 6**

Subject to the provisions of paragraph 3, subparagraph (a), of Article 4 of this Convention, each Member shall endeavour to participate with every other Member concerned in schemes for the maintenance of rights in course of acquisition, as regards each branch of social security referred to in paragraph 1 of Article 2 of this Convention and for which every one of these Members has legislation in force, for the benefit of persons who have been subject successively or alternately to the legislation of the said Members.

#### **Article 7**

1. The schemes for the maintenance of rights in course of acquisition referred to in Article 6 of this Convention shall provide for the adding together, to the extent necessary, of periods of insurance, employment, occupational activity or residence, as the case may be, completed under the legislation of the Members concerned for the purposes of:

- (a) participation in voluntary insurance or optional continued insurance, where appropriate;
- (b) acquisition, maintenance or recovery of rights and, as the case may be, calculation of benefits.

2. Periods completed concurrently under the legislation of two or more Members shall be reckoned only once.

3. The Members concerned shall, where necessary, determine by mutual agreement special arrangements for adding together periods which are different in nature and periods qualifying for right to benefits under special schemes.

4. Where a person has completed periods under the legislation of three or more Members which are parties to different bilateral or multilateral instruments, each Member which is concurrently bound by two or more of the instruments in question shall add these periods together, to the extent necessary, in accordance with the provisions of these instruments, for the purposes of acquisition, maintenance or recovery of rights to benefit.

#### **Article 8**

1. The schemes for the maintenance of rights in course of acquisition referred to in Article 6 of this Convention shall determine the formula of awarding:

- (a) invalidity, old-age and survivors' benefits, and
- (b) pensions, in respect of occupational diseases,

as well as the apportionment, where appropriate, of the costs involved.

2. In the case referred to in paragraph 4 of Article 7 of this Convention, each Member which is concurrently bound by two or more of the instruments in question shall apply the provisions of these instruments for the purpose of calculating benefits to which there is a right under its legislation, taking into account the periods added together in accordance with the legislation of the Members concerned.

3. Where in application of the provisions of paragraph 2 of this Article a Member would have to award benefits of the same nature to the same person in pursuance of two or more bilateral or multilateral instruments, that Member shall be required to award only the benefit most favourable to the person concerned as determined on the initial award of these benefits.

4. Notwithstanding the provisions of paragraph 2 of this Article the Members concerned may, where necessary, agree on supplementary provisions for the calculation of the benefits specified in that paragraph.

### **PART IV. MAINTENANCE OF ACQUIRED RIGHTS AND PROVISION OF BENEFITS ABROAD**

#### **Article 9**

1. Each Member shall guarantee the provision of invalidity, old-age and survivors' cash benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under its legislation, to beneficiaries who are nationals of a Member or refugees or stateless persons, irrespective of their place of residence, subject to measures for this purpose to be taken, where necessary, by agreement between the Members or with the states concerned.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Members concerned which participate in the schemes for the maintenance of rights in course of acquisition referred to in Article 6 of this Convention may agree to guarantee the provision of the benefits referred to in the said paragraph to beneficiaries resident in the territory of a Member other than the competent Member, within the framework of the bilateral or multilateral agreements referred to in paragraph 1 of Article 4 of this Convention.

3. In addition, notwithstanding the provisions of paragraph 1 of this Article, in the case of non-contributory benefits, the Members concerned shall determine by mutual agreement the conditions under which the provision of these benefits shall be guaranteed to beneficiaries resident in the territory of a Member other than the competent member.

4. The provisions of paragraphs 1, 2 and 3 of this Article need not be applied to:

- (a) special non-contributory benefits awarded as a form of assistance or in cases of need;
- (b) benefits awarded under transitional schemes.

**Article 10**

1. Members concerned shall endeavour to participate in schemes for the maintenance of rights acquired under their legislation, taking into account the provisions of Part III of this Convention, as regards each of the following branches of social security for which each of these Members has legislation in force: medical care, sickness benefit, maternity benefit and benefit in respect of employment injuries, other than pensions and death grants. These schemes shall guarantee such benefits to persons resident or temporarily resident in the territory of one of these Members other than the competent Member, under conditions and within limits to be determined by mutual agreement between the Members concerned.

2. When not assured by existing legislation, the reciprocity required by paragraph 1 of this Article may be assured by measures taken by a Member to guarantee benefits

corresponding to the benefits provided under the legislation of another Member, subject to the agreement of that Member.

3. Members concerned shall endeavour to participate in schemes for the maintenance of rights acquired under their legislation, taking into account the provisions of Part III of this Convention, as regards each of the following branches of social security for which each of these Members has legislation in force: unemployment benefit, family benefit and, notwithstanding the provisions of paragraph 1 of Article 9 of this Convention and paragraph 1 of this Article, rehabilitation benefit. These schemes shall guarantee such benefits to persons resident in the territory of one of these Members other than the competent Member, under conditions and within limits to be determined by mutual agreement between the Members concerned.

**Article 11**

The rules for the adjustment of benefits provided for under the legislation of a Member shall be applicable to the benefits payable under that legislation by virtue of the provisions of this Convention.

**PART V. ADMINISTRATIVE ASSISTANCE AND ASSISTANCE TO PERSONS COVERED BY THIS CONVENTION**

**Article 12**

1. The authorities and institutions of Members shall afford one another assistance with a view to facilitating the application of this Convention and of their respective legislation.

2. In principle, the administrative assistance given by these authorities and institutions to one another shall be free of charge. Members may agree to reimburse certain expenses.

3. The authorities, institutions and jurisdictions of one Member may not reject claims or other documents submitted to them by reason of the fact that they are written in an official language of another Member.

**Article 13**

1. Where a claimant is resident in the territory of a Member other than the competent Member, he may present his claim validly to the institution of his place of residence, which shall forward it to the institution or institutions referred to in the claim.

2. Any claim, declaration or appeal that should have been submitted, under the legislation of a Member, within a specified time to an authority, institution or jurisdiction of that Member, shall be admissible if it is submitted within that time-limit to an authority, institution or jurisdiction of another Member in the

territory of which the claimant is resident. In such event, the authority, institution or jurisdiction receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or jurisdiction of the first Member. The date on which any claim, declaration or appeal was submitted to an authority, institution or jurisdiction of the second Member shall be deemed to be the date of its submission to the authority, institution or jurisdiction competent to deal with it.

3. Benefits to be provided by a Member to a beneficiary resident or temporarily resident in the territory of another Member may be provided either directly by the institution liable for the payment, or through the intermediary of an institution designated by the latter Member, at the place where the beneficiary is resident or temporarily resident, subject to the agreement of the Members concerned.

#### **Article 14**

Each Member shall promote the development of social services to assist persons covered by this Convention, particularly migrant workers, in their dealings with the authorities, institutions and jurisdictions, particularly with respect to the award and receipt of benefits to which they are entitled and the exercise of their right of appeal, as well as in order to promote their personal and family welfare.

### **PART VI. MISCELLANEOUS PROVISIONS**

#### **Article 15**

Except for invalidity, old-age and survivors' benefits and benefits in respect of occupational disease, the costs of which are apportioned among two or more Members, this Convention shall not confer or maintain a right to several benefits of the same nature based on the same period of compulsory insurance, employment, occupational activity or residence.

#### **Article 16**

1. The benefits provided and other costs borne by an institution of a Member on behalf of an institution of another Member shall be reimbursed in accordance with the modalities determined by mutual agreement among these Members, unless they have agreed that there shall be no reimbursement.

2. Transfers of sums resulting from the application of this Convention shall be effected, if need be, in accordance with the agreements in force between the Members concerned at the date of transfer. In the absence of such agreements, the necessary arrangements shall be agreed between them.

#### **Article 17**

1. Members may derogate from the provisions of this Convention by special arrangements within the framework of the bilateral or multilateral instruments concluded amongst two or more of them, on condition that they do not affect the rights and obligations of other Members and settle the maintenance of rights on terms which, in the aggregate, are at least as favourable as those of this Convention.

2. A Member shall be deemed to satisfy the provisions of paragraph 1 of Article 9 and of Article 11 of this Convention:

- (a) if it guarantees at the date of its ratification the provision of the relevant benefits in a substantial amount prescribed under its legislation, to all beneficiaries regardless of their nationality and irrespective of their place of residence; and
- (b) if it gives effect to the provisions of paragraph 1 of Article 9 and of Article 11 of this Convention within the framework of the bilateral or multilateral instruments referred to in paragraph 1 of Article 4 of this Convention.

3. Each Member which has taken advantage of the provisions of paragraph 2 of this Article shall indicate in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) that its reasons for doing so subsist; or
- (b) that it renounces its right to avail itself of the provisions of the above-mentioned paragraph of this Article as from a stated date.

### **PART VII. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 18**

1. This Convention does not confer any right to benefit in respect of a period prior to its coming into force for the Members concerned.

2. For the application of the provisions of this Convention, all periods of insurance, employment, occupational activity or residence completed under the legislation of a Member before the date on which a scheme for the maintenance of rights in course of acquisition referred to in Article 6 of this Convention enters into force for the Member concerned shall be taken into account for the purpose of determining whether rights arise under that scheme as from the date of its entry into force, subject to specific provisions to be agreed upon, if necessary, between the Members concerned.

3. Any benefit referred to in paragraph 1 of Article 9 of this Convention, which has not been awarded or which has been suspended on account of the residence of the claimant in the territory of a State other than the competent Member, shall be awarded or resumed, at the request of the person concerned, as from the date on which this Convention enters into force for the latter Member or from the date of its entry into force for the Member of which he is a national, whichever is the later, unless the person concerned has previously obtained a lumpsum settlement in place of this benefit. The provisions of the legislation of the competent Member concerning the extinction of rights shall not be invoked against the person concerned if he submits his request within two years following this date or the date of the coming into effect of the measures provided for in paragraph 1 of Article 9, as the case may be.

4. Members concerned shall determine by mutual agreement the extent to which a scheme for the maintenance of rights in course of acquisition referred to in Article 6 of this Convention applies to a contingency arising before the entry into force of the scheme for these Members.

**Article 19**

1. The denunciation of this Convention by a Member shall not affect the Member's obligations with respect to contingencies arising before the date on which denunciation has taken effect.

2. Rights in course of acquisition which are maintained by virtue of this Convention shall not lapse by reason of its denunciation by a Member; their further maintenance during the period subsequent to the date on which this Convention ceased to be in force shall be determined by the bilateral or multilateral social security instruments concluded by the Member, or, in the absence of such instruments, by the legislation of the said Member.

**Article 20**

1. This Convention, revises, on the terms set forth in the following paragraphs of this Article, the Maintenance of Migrants' Pension Rights Convention, 1935.

2. The coming into force of this Convention for any Member bound by the obligations of the Maintenance of Migrants' Pension Rights Convention, 1935, shall not, ipso jure, involve the immediate denunciation of that Convention.

3. The Maintenance of Migrants' Pension Rights Convention, 1935, shall cease to have effect in the relations between any Members parties thereto as and when a scheme for the

maintenance of rights in course of acquisition in pursuance of Article 6 of this Convention has become applicable in these relations.

**Article 21**

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

**Article 22**

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 23**

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 24**

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 25**

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 26**

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 27**

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 23 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 28**

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

## C168 – Employment Promotion and Protection against Unemployment Convention, 1988

**Preamble**

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-fifth Session on 1 June 1988, and

Emphasising the importance of work and productive employment in any society not only because of the resources which they create for the community, but also because of the income which they bring to workers, the social role which they confer and the feeling of self-esteem which workers derive from them, and

Recalling the existing international standards in the field of employment and unemployment protection (the Unemployment Provision Convention and Recommendation, 1934, the Unemployment (Young Persons) Recommendation, 1935, the Income Security Recommendation, 1944, the Social Security (Minimum Standards) Convention, 1952, the Employment Policy Convention and Recommendation, 1964, the Human Resources Development Convention and Recommendation, 1975, the Labour Administration Convention and Recommendation, 1978, and the Employment Policy (Supplementary Provisions) Recommendation, 1984), and

Considering the widespread unemployment and underemployment affecting various countries throughout the world at all stages of development and in particular the problems of

young people, many of whom are seeking their first employment, and

Considering that, since the adoption of the international instruments concerning protection against unemployment referred to above, there have been important new developments in the law and practice of many Members necessitating the revision of existing standards, in particular the Unemployment Provision Convention, 1934, and the adoption of new international standards concerning the promotion of full, productive and freely chosen employment by all appropriate means, including social security, and

Noting that the provisions concerning unemployment benefit in the Social Security (Minimum Standards) Convention, 1952, lay down a level of protection that has now been surpassed by most of the existing compensation schemes in the industrialised countries and, unlike standards concerning other benefits, have not been followed by higher standards, but that the standards in question can still constitute a target for developing countries that are in a position to set up an unemployment compensation scheme, and

Recognising that policies leading to stable, sustained, non-inflationary economic growth and a flexible response to change, as well as to creation and promotion of all forms of productive and freely chosen employment including small undertakings, co-operatives, self-employment

and local initiatives for employment, even through the re-distribution of resources currently devoted to the financing of purely assistance-oriented activities towards activities which promote employment especially vocational guidance, training and rehabilitation, offer the best protection against the adverse effects of involuntary unemployment, but that involuntary unemployment nevertheless exists and that it is therefore important to ensure that social security systems should provide employment assistance and economic support to those who are involuntarily unemployed, and

Having decided upon the adoption of certain proposals with regard to employment promotion and social security which is the fifth item on the agenda of the session with a view, in particular, to revising the Unemployment Provision Convention, 1934, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-first day of June of the year one thousand nine hundred and eighty-eight the following Convention, which may be cited as the Employment Promotion and Protection against Unemployment Convention, 1988:

## I. GENERAL PROVISIONS

### Article 1

In this Convention:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation.

### Article 2

Each Member 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.

### Article 3

The provisions of this Convention shall be implemented in consultation and co-operation with the organisations of employers and workers, in accordance with national practice.

### Article 4

1. Each Member which ratifies this Convention may, by a declaration accompanying its ratification, exclude the

provisions of Part VII from the obligations accepted by ratification.

2. Each Member which has made a declaration under paragraph 1 above may withdraw it at any time by a subsequent declaration.

### Article 5

1. Each Member may avail itself, by a declaration accompanying its ratification, of at most two of the temporary exceptions provided for in Article 10, paragraph 4, Article 11, paragraph 3, Article 15, paragraph 2, Article 18, paragraph 2, Article 19, paragraph 4, Article 23, paragraph 2, Article 24, paragraph 2, and Article 25, paragraph 2. Such a declaration shall state the reasons which justify these exceptions.

2. Notwithstanding the provisions of paragraph 1 above, a Member, where it is justified by the extent of protection of its social security system, may avail itself, by a declaration accompanying its ratification, of the temporary exceptions provided for in Article 10, paragraph 4, Article 11, paragraph 3, Article 15, paragraph 2, Article 18, paragraph 2, Article 19, paragraph 4, Article 23, paragraph 2, Article 24, paragraph 2 and Article 25, paragraph 2. Such a declaration shall state the reasons which justify these exceptions.

3. Each Member which has made a declaration under paragraph 1 or paragraph 2 shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement in respect of each exception of which it avails itself-

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the exception in question as from a stated date.

4. Each Member which has made a declaration under paragraph 1 or paragraph 2 shall, as appropriate to the terms of such declaration and as circumstances permit-

- (a) cover the contingency of partial unemployment;
- (b) increase the number of persons protected;
- (c) increase the amount of the benefits;
- (d) reduce the length of the waiting period;
- (e) extend the duration of payment of benefits;
- (f) adapt statutory social security schemes to the occupational circumstances of part-time workers;
- (g) endeavour to ensure the provision of medical care to persons in receipt of unemployment benefit and their dependants;

- (h) endeavour to guarantee that the periods during which such benefit is paid will be taken into account for the acquisition of the right to social security benefits and, where appropriate, the calculation of disability, old-age and survivors' benefit.

#### **Article 6**

1. Each Member shall ensure equality of treatment for all persons protected, without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, nationality, ethnic or social origin, disability or age.
2. The provisions of paragraph 1 shall not prevent the adoption of special measures which are justified by the circumstances of identified groups under the schemes referred to in Article 12, paragraph 2, or are designed to meet the specific needs of categories of persons who have particular problems in the labour market, in particular disadvantaged groups, or the conclusion between States of bilateral or multilateral agreements relating to unemployment benefits on the basis of reciprocity.

### **II. PROMOTION OF PRODUCTIVE EMPLOYMENT**

#### **Article 7**

Each Member shall declare as a priority objective a policy designed to promote full, productive and freely chosen employment by all appropriate means, including social security. Such means should include, inter alia, employment services, vocational training and vocational guidance.

#### **Article 8**

1. Each Member shall endeavour to establish, subject to national law and practice, special programmes to promote additional job opportunities and employment assistance and to encourage freely chosen and productive employment for identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment such as women, young workers, disabled persons, older workers, the long-term unemployed, migrant workers lawfully resident in the country and workers affected by structural change.
2. Each Member shall specify, in its reports under article 22 of the Constitution of the International Labour Organisation, the categories of persons for whom it undertakes to promote employment programmes.
3. Each Member shall endeavour to extend the promotion of productive employment progressively to a greater number of categories than the number initially covered.

#### **Article 9**

The measures envisaged in this Part shall be taken in the light of the Human Resources Development Convention and Recommendation, 1975, and the Employment Policy (supplementary Provisions) Recommendation, 1984.

### **III. CONTINGENCIES COVERED**

#### **Article 10**

1. The contingencies covered shall include, under prescribed conditions, full unemployment defined as the loss of earnings due to inability to obtain suitable employment with due regard to the provisions of Article 21, paragraph 2, in the case of a person capable of working, available for work and actually seeking work.
2. Each Member shall endeavour to extend the protection of the Convention, under prescribed conditions, to the following contingencies:
  - (a) loss of earnings due to partial unemployment, defined as a temporary reduction in the normal or statutory hours of work; and
  - (b) suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship for reasons of, in particular, an economic, technological, structural or similar nature.
3. Each Member shall in addition endeavour to provide the payment of benefits to part-time workers who are actually seeking full-time work. The total of benefits and earnings from their part-time work may be such as to maintain incentives to take up full-time work.
4. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraphs 2 and 3 above may be deferred.

### **IV. PERSONS PROTECTED**

#### **Article 11**

1. The persons protected shall comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices.
2. Notwithstanding the provisions of paragraph 1 above, public employees whose employment up to normal retiring age is guaranteed by national laws or regulations may be excluded from protection.
3. Where a declaration made in virtue of Article 5 is in force, the persons protected shall comprise:
  - (a) prescribed classes of employees constituting not less than 50 per cent of all employees; or

- (b) where specifically justified by the level of development, prescribed classes of employees constituting not less than 50 per cent of all employees in industrial workplaces employing 20 persons or more.

## V. METHODS OF PROTECTION

### **Article 12**

1. Unless it is otherwise provided in this Convention, each Member may determine the method or methods of protection by which it chooses to put into effect the provisions of the Convention, whether by a contributory or non-contributory system, or by a combination of such systems.

2. Nevertheless, if the legislation of a Member protects all residents whose resources, during the contingency, do not exceed prescribed limits, the protection afforded may be limited, in the light of the resources of the beneficiary and his or her family, in accordance with the provisions of Article 16.

## VI. BENEFIT TO BE PROVIDED

### **Article 13**

Benefits provided in the form of periodical payments to the unemployed may be related to the methods of protection.

### **Article 14**

In cases of full unemployment, benefits shall be provided in the form of periodical payments calculated in such a way as to provide the beneficiary with partial and transitional wage replacement and, at the same time, to avoid creating disincentives either to work or to employment creation.

### **Article 15**

1. In cases of full unemployment and suspension of earnings due to a temporary suspension of work without any break in the employment relationship, when this contingency is covered, benefits shall be provided in the form of periodical payments, calculated as follows:

- (a) where these benefits are based on the contributions of or on behalf of the person protected or on previous earnings, they shall be fixed at not less than 50 per cent of previous earnings, it being permitted to fix a maximum for the amount of the benefit or for the earnings to be taken into account, which may be related, for example, to the wage of a skilled manual employee or to the average wage of workers in the region concerned;
- (b) where such benefits are not based on contributions or previous earnings, they

shall be fixed at not less than 50 per cent of the statutory minimum wage or of the wage of an ordinary labourer, or at a level which provides the minimum essential for basic living expenses, whichever is the highest;

2. Where a declaration made in virtue of Article 5 is in force, the amount of the benefits shall be equal-

- (a) to not less than 45 per cent of the previous earnings; or
- (b) to not less than 45 per cent of the statutory minimum wage or of the wage of an ordinary labourer but no less than a level which provides the minimum essential for basic living expenses.

3. If appropriate, the percentages specified in paragraphs 1 and 2 may be reached by comparing net periodical payments after tax and contributions with net earnings after tax and contributions.

### **Article 16**

Notwithstanding the provisions of Article 15, the benefit provided beyond the initial period specified in Article 19, paragraph 2 (a), as well as benefits paid by a Member in accordance with Article 12, paragraph 2, may be fixed after taking account of other resources, beyond a prescribed limit, available to the beneficiary and his or her family, in accordance with a prescribed scale. In any case, these benefits, in combination with any other benefits to which they may be entitled, shall guarantee them healthy and reasonable living conditions in accordance with national standards.

### **Article 17**

1. Where the legislation of a Member makes the right to unemployment benefit conditional upon the completion of a qualifying period, this period shall not exceed the length deemed necessary to prevent abuse.

2. Each Member shall endeavour to adapt the qualifying period to the occupational circumstances of seasonal workers.

### **Article 18**

1. If the legislation of a Member provides that the payment of benefit in cases of full unemployment should begin only after the expiry of a waiting period, such period shall not exceed seven days.

2. Where a declaration made in virtue of Article 5 is in force, the length of the waiting period shall not exceed ten days.

3. In the case of seasonal workers the waiting period specified in paragraph 1 above may be adapted to their occupational circumstances.

**Article 19**

1. The benefits provided in cases of full unemployment and suspension of earnings due to a temporary suspension of work without any break in the employment relationship shall be paid throughout these contingencies.

2. Nevertheless, in the case of full unemployment:

(a) the initial duration of payment of the benefit provided for in Article 15 may be limited to 26 weeks in each spell of unemployment, or to 39 weeks over any period of 24 months;

(b) in the event of unemployment continuing beyond this initial period of benefit, the duration of payment of benefit, which may be calculated in the light of the resources of the beneficiary and his or her family in accordance with the provisions of Article 16, may be limited to a prescribed period.

3. If the legislation of a Member provides that the initial duration of payment of the benefit provided for in Article 15 shall vary with the length of the qualifying period, the average duration fixed for the payment of benefits shall be at least 26 weeks.

4. Where a declaration made in virtue of Article 5 is in force, the duration of payment of benefit may be limited to 13 weeks over any periods of 12 months or to an average of 13 weeks if the legislation provides that the initial duration of payment shall vary with the length of the qualifying period.

5. In the cases envisaged in paragraph 2 (b) above each Member shall endeavour to grant appropriate additional assistance to the persons concerned with a view to permitting them to find productive and freely chosen employment, having recourse in particular to the measures specified in Part II.

6. The duration of payment of benefit to seasonal workers may be adapted to their occupational circumstances, without prejudice to the provisions of paragraph 2 (b) above.

**Article 20**

The benefit to which a protected person would have been entitled in the cases of full or partial unemployment or suspension of earnings due to a temporary suspension of work without any break in the employment relationship may be refused, withdrawn, suspended or reduced to the extent prescribed-

(a) for as long as the person concerned is absent from the territory of the Member;

(b) when it has been determined by the competent authority that the person concerned had deliberately contributed to his or her own dismissal;

(c) when it has been determined by the competent authority that the person concerned has left employment voluntarily without just cause;

(d) during the period of a labour dispute, when the person concerned has stopped work to take part in a labour dispute or when he or she is prevented from working as a direct result of a stoppage of work due to this labour dispute;

(e) when the person concerned has attempted to obtain or has obtained benefits fraudulently;

(f) when the person concerned has failed without just cause to use the facilities available for placement, vocational guidance, training, retraining or redeployment in suitable work;

(g) as long as the person concerned is in receipt of another income maintenance benefit provided for in the legislation of the Member concerned, except a family benefit, provided that the part of the benefit which is suspended does not exceed that other benefit.

**Article 21**

1. The benefit to which a protected person would have been entitled in the case of full unemployment may be refused, withdrawn, suspended or reduced, to the extent prescribed, when the person concerned refuses to accept suitable employment.

2. In assessing the suitability of employment, account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of a stoppage of work due to an on-going labour dispute.

**Article 22**

When protected persons have received directly from their employer or from any other source under national laws or regulations or collective agreements, severance pay, the principal purpose of which is to contribute towards compensating them for the loss of earnings suffered in the event of full unemployment-

(a) the unemployment benefit to which the persons concerned would be entitled may be suspended for a period corresponding to that during which the severance pay

compensates for the loss of earnings suffered; or

- (b) the severance pay may be reduced by an amount corresponding to the value converted into a lump sum of the unemployment benefit to which the persons concerned are entitled for a period corresponding to that during which the severance pay compensates for the loss of earnings suffered,

as each Member may decide.

**Article 23**

1. Each Member whose legislation provides for the right to medical care and makes it directly or indirectly conditional upon occupational activity shall endeavour to ensure, under prescribed conditions, the provision of medical care to persons in receipt of unemployment benefit and to their dependants.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

**Article 24**

1. Each Member shall endeavour to guarantee to persons in receipt of unemployment benefit, under prescribed conditions, that the periods during which benefits are paid will be taken into consideration:

- (a) for acquisition of the right to and, where appropriate, calculation of disability, old-age and survivors' benefit, and
- (b) for acquisition of the right to medical care and sickness, maternity and family benefit after the end of unemployment,

when the legislation of the Member concerned provides for such benefits and makes them directly or indirectly conditional upon occupational activity.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

**Article 25**

1. Each Member shall ensure that statutory social security schemes which are based on occupational activity are adjusted to the occupational circumstances of part-time workers, unless their hours of work or earnings can be considered, under prescribed conditions, as negligible.

2. Where a declaration made in virtue of Article 5 is in force, the implementation of paragraph 1 above may be deferred.

**VII. SPECIAL PROVISIONS FOR NEW APPLICANTS FOR EMPLOYMENT**

**Article 26**

1. Members shall take account of the fact that there are many categories of persons seeking work who have never been, or have ceased to be, recognised as unemployed or have never been, or have ceased to be, covered by schemes for the protection of the unemployed. Consequently, at least three of the following ten categories of persons seeking work shall receive social benefits, in accordance with prescribed terms and conditions:

- (a) young persons who have completed their vocational training;
- (b) young persons who have completed their studies;
- (c) young persons who have completed their compulsory military service;
- (d) persons after a period devoted to bringing up a child or caring for someone who is sick, disabled or elderly;
- (e) persons whose spouse had died, when they are not entitled to a survivor's benefit;
- (f) divorced or separated persons;
- (g) released prisoners;
- (h) adults, including disabled persons, who have completed a period of training;
- (i) migrant workers on return to their home country, except in so far as they have acquired rights under the legislation of the country where they last worked;
- (j) previously self-employed persons.

2. Each Member shall specify, in its reports under article 22 of the Constitution of the International Labour Organisation, the categories of persons listed in paragraph 1 above which it undertakes to protect.

3. Each Member shall endeavour to extend protection progressively to a greater number of categories than the number initially protected.

**VIII. LEGAL, ADMINISTRATIVE AND FINANCIAL GUARANTEES**

**Article 27**

1. In the event of refusal, withdrawal, suspension or reduction of benefit or dispute as to its amount, claimants shall have the right to present a complaint to the body administering the benefit scheme and to appeal thereafter to an independent body. They shall be informed in writing of the procedures available, which shall be simple and rapid.

2. The appeal procedure shall enable the claimant, in accordance with national law and

practice, to be represented or assisted by a qualified person of the claimant's choice or by a delegate of a representative workers' organisation or by a delegate of an organisation representative of protected persons.

**Article 28**

Each Member shall assume general responsibility for the sound administration of the institutions and services entrusted with the application of the Convention.

**Article 29**

1. When the administration is directly entrusted to a government department responsible to Parliament, representatives of the protected persons and of the employers shall be associated in the administration in an advisory capacity, under prescribed conditions.

2. When the administration is not entrusted to a government department responsible to Parliament:

- (a) representatives of the protected persons shall participate in the administration or be associated therewith in an advisory capacity under prescribed conditions;
- (b) national laws or regulations may also provide for the participation of employers' representatives;
- (c) the laws or regulations may further provide for the participation of representatives of the public authorities.

**Article 30**

In cases where subsidies are granted by the State or the social security system in order to safeguard employment, Members shall take the necessary steps to ensure that the payments are expended only for the intended purpose and to prevent fraud or abuse by those who receive such payments.

**Article 31**

This Convention revises the Unemployment Provision Convention, 1934.

**Article 32**

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

**Article 33**

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

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

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

**Article 34**

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

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

**Article 35**

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

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

**Article 36**

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

**Article 37**

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

**Article 38**

1. Should the Conference adopt a new Convention revising this Convention in whole

or in part, then, unless the new Convention otherwise provides-

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

Convention shall cease to be open to ratification by the Members.

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

**Article 39**

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

**C183 – Maternity Protection Convention, 2000**

**Preamble**

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 88th Session on 30 May 2000, and

Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognize the diversity in economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice, and

Noting the provisions of the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), the United Nations Convention on the Rights of the Child (1989), the Beijing Declaration and Platform for Action (1995), the International Labour Organization’s Declaration on Equality of Opportunity and Treatment for Women Workers (1975), the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as the international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, in particular the Convention concerning Workers with Family Responsibilities, 1981, and

Taking into account the circumstances of women workers and the need to provide protection for pregnancy, which are the shared responsibility of government and society, and Having decided upon the adoption of certain proposals with regard to the revision of the Maternity Protection Convention (Revised),

1952, and Recommendation, 1952, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this fifteenth day of June of the year two thousand the following Convention, which may be cited as the Maternity Protection Convention, 2000.

**SCOPE**

**Article 1**

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

**Article 2**

1. This Convention applies to all employed women, including those in atypical forms of dependent work.

2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

## HEALTH PROTECTION

### **Article 3**

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

## MATERNITY LEAVE

### **Article 4**

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.

3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.

4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

## LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

### **Article 5**

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

## BENEFITS

### **Article 6**

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national

practice, to women who are absent from work on leave referred to in Articles 4 or 5.

2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.

3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.

5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.

6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:

- (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
- (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

### **Article 7**

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.

2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

### **EMPLOYMENT PROTECTION AND NON-DISCRIMINATION**

#### **Article 8**

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.

2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

#### **Article 9**

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including – notwithstanding Article 2, paragraph 1 – access to employment.

2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:

- (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
- (b) where there is a recognized or significant risk to the health of the woman and child.

### **BREASTFEEDING MOTHERS**

#### **Article 10**

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

### **PERIODIC REVIEW**

#### **Article 11**

Each Member shall examine periodically, in consultation with the representative organizations of employers and workers, the appropriateness of extending the period of leave referred to in Article 4 or of increasing the amount or the rate of the cash benefits referred to in Article 6.

### **IMPLEMENTATION**

#### **Article 12**

This Convention shall be implemented by means of laws or regulations, except in so far as effect is given to it by other means such as collective agreements, arbitration awards, court decisions, or in any other manner consistent with national practice.

### **FINAL PROVISIONS**

#### **Article 13**

This Convention revises the Maternity Protection Convention (Revised), 1952.

#### **Article 14**

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

#### **Article 15**

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

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

**Article 16**

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 17**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

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

**Article 18**

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 the Director-General in accordance with the provisions of the preceding Articles.

**Article 19**

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 20**

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 16 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 21**

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

## ILO Recommendations

### R067 – Income Security Recommendation, 1944

#### Preamble

The General Conference of the International Labour Organisation,

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

Having decided upon the adoption of certain proposals with regard to income security, which is included in the fourth item on the agenda of the Session, and

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

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

Whereas the Atlantic Charter contemplates the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social security; and

Whereas the Conference of the International Labour Organisation by a resolution adopted on 5 November 1941, endorsed this principle of the Atlantic Charter and pledged the full co-operation of the International Labour Organisation in its implementation; and

Whereas income security is an essential element in social security; and

Whereas the International Labour Organisation has promoted the development of income security:

- by the adoption by the International Labour Conference of Conventions and Recommendations relating to workmen's compensation for accidents and occupational diseases, sickness insurance, provision for maternity, old-age, invalidity, and widows' and orphans' pensions, and provision for unemployment,
- by the adoption by the First and Second Labour Conferences of American States of the resolutions constituting the Inter-American Social Insurance Code, by the participation of a delegation of the Governing Body in the First Inter-American Conference on Social Security which adopted the declaration of Santiago

de Chile, and by the approval by the Governing Body of the Statute of the Inter-American Conference on Social Security established as a permanent agency of co-operation between social security administrations and institutions acting in concert with the International Labour Office, and by the participation of the International Labour Office in an advisory capacity in the framing of social insurance schemes in a number of countries and by other measures; and

Whereas some Members have not taken such steps as are within their competence to promote the well-being and development of their people although their need for improved labour standards, economic advancement and social security is greatest; and

Whereas it is now highly desirable that such Members take all necessary steps as soon as possible to reach the accepted international minimum standards and develop those standards; and

Whereas it is now desirable to take further steps towards the attainment of income security by the unification or co-ordination of social insurance schemes, the extension of such schemes to all workers and their families, including rural populations and the self-employed, and the elimination of inequitable anomalies; and

Whereas the formulation of certain general principles which should be followed by Members of the Organisation in developing their income security schemes along these lines on the foundation of the existing Conventions and Recommendations, pending the unification and amplification of the provisions of the said Conventions and Recommendations, will contribute to this end;

The Conference:

- (a) recommends the Members of the Organisation to apply progressively the following general guiding principles, as rapidly as national conditions allow, in developing their income security schemes with a view to the implementation of the fifth principle of the Atlantic Charter, and to report to the International Labour Office from time to time as requested by the Governing Body, concerning the

- measures taken to give effect to the said general guiding principles;
- (b) calls the attention of the Members of the Organisation to the suggestions for the application of these general guiding principles submitted to the Conference and contained in the Annex to this Recommendation.

## GUIDING PRINCIPLES

### General

1. Income security schemes should relieve want and prevent destitution by restoring, up to a reasonable level, income which is lost by reason of inability to work (including old age) or to obtain remunerative work or by reason of the death of a breadwinner.
2. Income security should be organised as far as possible on the basis of compulsory social insurance, whereby insured persons fulfilling prescribed qualifying conditions are entitled, in consideration of the contributions they have paid to an insurance institution, to benefits payable at rates, and in contingencies, defined by law.
3. Provision for needs not covered by compulsory social insurance should be made by social assistance; certain categories of persons, particularly dependent children and needy invalids, aged persons and widows, should be entitled to allowances at reasonable rates according to a prescribed scale.
4. Social assistance appropriate to the needs of the case should be provided for other persons in want.

### Social Insurance

5. The range of contingencies to be covered by compulsory social insurance should embrace all contingencies in which an insured person is prevented from earning his living, whether by inability to work or inability to obtain remunerative work, or in which he dies leaving a dependent family, and should include certain associated emergencies, generally experienced, which involved extraordinary strain on limited incomes, in so far as they are not otherwise covered.
6. Compensation should be provided in cases of incapacity for work and of death resulting from employment.
7. In order that the benefits provided by social insurance may be closely adapted to the variety of needs, the contingencies covered should be classified as follows:
  - (a) sickness;
  - (b) maternity;
  - (c) invalidity;
  - (d) old age;

- (e) death of breadwinner;
- (f) unemployment;
- (g) emergency expenses; and
- (h) employment injuries.

Provided that benefits should not be payable at the same time for more than one of the following contingencies: invalidity, old age and unemployment.

8. Supplements for each of the first two children should be added to all benefits payable for loss of earnings, provision for further children being left to be made by means of children's allowances payable out of public funds or under contributory schemes.
9. The contingency for which sickness benefit should be paid is loss of earnings due to abstention from work necessitated on medical grounds by an acute condition, due to disease or injury, requiring medical treatment or supervision.
10. The contingency for which maternity benefit should be paid is loss of earnings due to abstention from work during prescribed periods before and after childbirth.
11. The contingency for which invalidity benefit should be paid is inability to engage in any substantially gainful work by reason of a chronic condition, due to disease or injury, or by reason of the loss of a member or function.
12. The contingency for which old-age benefit should be paid is the attainment of a prescribed age, which should be that at which persons commonly become incapable of efficient work, the incidence of sickness and invalidity becomes heavy, and unemployment, if present, is likely to be permanent.
13. The contingency for which survivors' benefits should be paid is the loss of support presumably suffered by the dependants as the result of the death of the head of the family.
14. The contingency for which unemployment benefit should be paid is loss of earnings due to the unemployment of an insured person who is ordinarily employed, capable of regular employment in some occupation, and seeking suitable employment, or due to part-time unemployment.
15. Benefits should be provided in respect of extraordinary expenses, not otherwise covered, incurred in cases of sickness, maternity, invalidity and death.
16. The contingency for which compensation for an employment injury should be paid is traumatic injury or disease resulting from employment and not brought about deliberately or by the serious and wilful misconduct of the victim, which results in temporary or permanent incapacity or death.

17. Social insurance should afford protection, in the contingencies to which they are exposed, to all employed and self-employed persons, together with their dependants, in respect of whom it is practicable--

- (a) to collect contributions without incurring disproportionate administrative expenditure; and
- (b) to pay benefits with the necessary co-operation of medical and employment services and with due precautions against abuse.

18. The employer should be made responsible for collecting contributions in respect of all persons employed by him, and should be entitled to deduct the sums due by them from their remuneration at the time when it is paid.

19. In order to facilitate the efficient administration of benefits, arrangements should be made for the keeping of records of contributions, for ready means of verifying the presence of the contingencies which give rise to benefits, and for a parallel organisation of medical and employment services with preventive and remedial functions.

20. Persons employed for remuneration should be insured against the whole range of contingencies covered by social insurance as soon as the collection of contributions in respect of them can be organised and the necessary arrangements can be made for the administration of benefit.

21. Self-employed persons should be insured against the contingencies of invalidity, old age and death, under the same conditions as employed persons, as soon as the collection of their contributions can be organised. Consideration should be given to the possibility of insuring them also against sickness and maternity necessitating hospitalisation, sickness which has lasted for several months, and extraordinary expenses incurred in cases of sickness, maternity, invalidity and death.

22. Benefits should replace lost earnings, with due regard to family responsibilities, up to as high a level as is practicable without impairing the will to resume work where resumption is a possibility, and without levying charges on the productive groups so heavy that output and employment are checked.

23. Benefits should be related to the previous earnings of the insured person on the basis of which he has contributed: Provided that any excess of earnings over those prevalent among skilled workers may be ignored for the purpose of determining the rate of benefits, or portions thereof, financed from sources other than the contributions of the insured person.

24. Benefits at flat rates may be appropriate for countries where adequate and economical facilities exist for the population to procure additional protection by voluntary insurance. Such benefits should be commensurate with the earnings of unskilled workers.

25. The right to benefits other than compensation for employment injuries should be subject to contribution conditions designed to prove that the normal status of the claimant is that of an employed or self-employed person and to maintain reasonable regularity in the payment of contributions: Provided that a person should not be disqualified for benefits by reason of the failure of his employer duly to collect the contributions payable in respect of him.

26. The cost of benefits, including the cost of administration, should be distributed among insured persons, employers and taxpayers in such a way as to be equitable to insured persons and to avoid hardship to insured persons of small means or any disturbance to production.

27. The administration of social insurance should be unified or co-ordinated within a general system of social security services, and contributors should, through their organisations, be represented on the bodies which determine or advise upon administrative policy and propose legislation or frame regulations.

#### **Social Assistance**

28. Society should normally co-operate with parents through general measures of assistance designed to secure the well-being of dependent children.

29. Invalids, aged persons and widows who are not receiving social insurance benefits because they or their husbands, as the case may be, were not compulsorily insured, and whose incomes do not exceed a prescribed level, should be entitled to special maintenance allowances at prescribed rates.

30. Appropriate allowances in cash or partly in cash and partly in kind should be provided for all persons who are in want and do not require internment for corrective care.

#### **ANNEX: Guiding principles accompanied by suggestions for application.**

(The paragraphs in bold type are the general guiding principles and the subparagraphs are the suggestions for application.)

#### **GENERAL**

1. Income security schemes should relieve want and prevent destitution by restoring, up to a reasonable level, income which is lost by reason of inability to work (including old age)

or to obtain remunerative work or by reason of the death of a breadwinner.

2. Income security should be organised as far as possible on the basis of compulsory social insurance, whereby insured persons fulfilling prescribed qualifying conditions are entitled, in consideration of the contributions they have paid to an insurance institution, to benefits payable at rates, and in contingencies, defined by law.

3. Provision for needs not covered by compulsory social insurance should be made by social assistance; certain categories of persons, particularly dependent children and needy invalids, aged persons and widows, should be entitled to allowances at reasonable rates according to a prescribed scale.

4. Social assistance appropriate to the needs of the case should be provided for other persons in want.

## I. SOCIAL INSURANCE

### A. Contingencies Covered

#### *Range of contingencies to be covered*

5. The range of contingencies to be covered by compulsory social insurance should embrace all contingencies in which an insured person is prevented from earning his living, whether by inability to work or inability to obtain remunerative work, or in which he dies leaving a dependent family, and should include certain associated emergencies, generally experienced, which involve extraordinary strain on limited incomes, in so far as they are not otherwise covered.

6. Compensation should be provided in cases of incapacity for work and of death resulting from employment.

7. In order that the benefits provided by social insurance may be closely adapted to the variety of needs, the contingencies covered should be classified as follows:

- (a) sickness;
- (b) maternity;
- (c) invalidity;
- (d) old age;
- (e) death of breadwinner;
- (f) unemployment;
- (g) emergency expenses; and
- (h) employment injuries. Provided that benefits should not be payable at the same time for more than one of the following contingencies: invalidity, old age and unemployment.

8. Supplements for each of the first two children should be added to all benefits payable for loss of earnings, provision for

further children being left to be made by means of children's allowances payable out of public funds or under contributory schemes.

### *Sickness*

9. The contingency for which sickness benefit should be paid is loss of earnings due to abstention from work necessitated on medical grounds by an acute condition, due to disease or injury, requiring medical treatment or supervision.

(1) The necessity for abstention from work should be judged, as a rule, with reference to the previous occupation of the insured person, which he may be expected to resume.

(2) Benefit need not be paid for the first few days of a period of sickness, but if sickness recurs within a few months, a fresh waiting period should not be imposed.

(3) Benefit should preferably be continued until the beneficiary is fit to return to work, dies or becomes an invalid. If, however, it is considered necessary to limit the duration of benefit, the maximum period should not be less than 26 weeks for a single case, and provision should be made for extending the duration of benefit in the case of specified diseases, such as tuberculosis, which often involve lengthy, though curable, sickness: Provided that at the outset of the operation of an insurance scheme it may be necessary to provide for a shorter period than 26 weeks.

### *Maternity*

10. The contingency for which maternity benefit should be paid is loss of earnings due to abstention from work during prescribed periods before and after childbirth.

(1) A woman should have the right to leave her work if she produces a medical certificate stating that her confinement will probably take place within six weeks, and no woman should be permitted to work during the six weeks following her confinement.

(2) During these periods maternity benefit should be payable.

(3) Absence from work for longer periods or on other occasions may be desirable on medical grounds, having regard to the physical condition of the beneficiary and the exigencies of her work; during any such periods sickness benefits should be payable.

(4) The payment of maternity benefit may be made conditional on the utilisation by the beneficiary of health services provided for her and her child.

### *Invalidity*

**11. The contingency for which invalidity benefit should be paid is inability to engage in any substantially gainful work by reason of a chronic condition, due to disease or injury, or by reason of the loss of a member or function.**

(1) A handicapped person should be expected to engage in any occupation which may reasonably be indicated for him, having regard to his remaining strength and ability, his previous experience, and any facilities for training available to him.

(2) A person for whom such an occupation can be indicated but is not yet available, and a person following a training course, should receive provisional invalidity benefit, training benefit or unemployment benefit, if he is otherwise qualified for it.

(3) A person for whom no such occupation can be indicated should receive invalidity benefit.

(4) Beneficiaries whose permanent inability to engage regularly in any gainful occupation has been confirmed should be allowed to supplement their invalidity benefit by casual earnings of small amount.

(5) Where the rate of invalidity benefit is related to the rate of the previous earnings of the insured person, the right to benefit should be admitted if the handicapped person is not able to earn by ordinary effort as much as one-third of the normal earnings in his previous occupation of able-bodied persons having the same training.

(6) Invalidity benefit should be paid, from the date when sickness benefit ceases, for the whole duration of invalidity, provided that when the beneficiary reaches the age at which old-age benefit may be claimed the latter may be substituted for invalidity benefit.

**Old Age**

**12. The contingency for which old-age benefit should be paid is the attainment of a prescribed age, which should be that at which persons commonly become incapable of efficient work, the incidence of sickness and invalidity becomes heavy, and unemployment, if present, is likely to be permanent.**

(1) The minimum age at which old-age benefit may be claimed should be fixed at not more than sixty-five in the case of men and sixty in the case of women: Provided that a lower age may be fixed for persons who have worked for many years in arduous or unhealthy occupations.

(2) Payment of old-age benefit may, if the basic benefit can be considered sufficient for subsistence, be made conditional on

retirement from regular work in any gainful occupation; where such retirement is required, the receipt of casual earnings of relatively small amount should not disqualify for old-age benefit.

**Death of Breadwinner**

**13. The contingency for which survivors' benefits should be paid is the loss of support presumably suffered by the dependants as the result of the death of the head of the family.**

(1) Survivors' benefits should be paid: (a) to the widow of an insured man; (b) for the children, stepchildren, adopted children and, subject to their previous registration as dependants, illegitimate children of an insured man or of an insured woman who supported the children; and (c) under conditions to be defined by national laws, to an unmarried woman with whom the deceased cohabited.

(2) Widow's benefit should be paid to a widow who has in her care a child for whom child's benefit is payable or who, at her husband's death or later, is an invalid or has attained the minimum age at which old-age benefit may be claimed; a widow who does not fulfil one of these conditions should be paid widow's benefit for a minimum period of several months, and thereafter if she is unemployed until suitable employment can be offered to her, after training if necessary.

(3) Child's benefit should be paid for a child who is under the school-leaving age, or who is under the age of eighteen and is continuing his general or vocational education.

**Unemployment**

**14. The contingency for which unemployment benefit should be paid is loss of earnings due to the unemployment of an insured person who is ordinarily employed, capable of regular employment in some occupation, and seeking suitable employment, or due to part-time unemployment.**

(1) Benefit need not be paid for the first few days of a period of unemployment reckoned from the date on which the claim is registered, but if unemployment recurs within a few months, a fresh waiting period should not be imposed.

(2) Benefit should continue to be paid until suitable employment is offered to the insured person.

(3) During an initial period reasonable in the circumstances of the case, only the following should be deemed to be suitable employment:

(a) employment in the usual occupation of the insured person in a place not involving a

change of residence and at the current rate of wages, as fixed by collective agreements where applicable; or

- (b) another employment acceptable to the insured person.
- (4) After the expiration of the initial period:
  - (a) employment involving a change of occupation may be deemed to be suitable if the employment offered is one which may reasonably be offered to the insured person, having regard to his strength, ability, previous experience and any facilities for training available to him;
  - (b) employment involving a change of residence may be deemed to be suitable if suitable accommodation is available in the new place of residence;
  - (c) employment under conditions less favourable than the insured person habitually obtained in his usual occupation and district may be deemed to be suitable if the conditions offered conform to the standard generally observed in the occupation and district in which the employment is offered.

### **Emergency Expenses**

**15. Benefits should be provided in respect of extraordinary expenses, not otherwise covered, incurred in cases of sickness, maternity, invalidity and death.**

- (1) Necessary domestic help should be provided, or benefit paid for hiring it, during the hospitalisation of the mother of dependent children, if she is an insured woman or the wife of an insured man and is not receiving any benefit in lieu of earnings.
- (2) A lump sum should be paid at childbirth to insured women and the wives of insured men towards the cost of a layette and similar expenses.
- (3) A special supplement should be paid to recipients of invalidity or old-age benefit who need constant attendance.
- (4) A lump sum should be paid on the death of an insured person, or of the wife, husband or dependent child of an insured person, towards the cost of burial.

### **Employment Injuries**

**16. The contingency for which compensation for an employment injury should be paid is traumatic injury or disease resulting from employment and not brought about deliberately or by the serious and wilful misconduct of the victim which results in temporary or permanent incapacity or death.**

- (1) Injuries resulting from employment should be deemed to include accidents

occurring on the way to or from the place of employment.

(2) Where compensation for an employment injury is payable, the foregoing provisions should be subject to appropriate modifications as indicated in the following paragraphs.

(3) Any disease which occurs frequently only to persons employed in certain occupations or is a poisoning caused by a substance used in certain occupations, should, if the person suffering from such a disease was engaged in such an occupation, be presumed to be of occupational origin and give rise to compensation.

(4) A list of diseases presumed to be of occupational origin should be established and should be revised from time to time by a simple procedure.

(5) In fixing any minimum period of employment in the occupation required to establish the presumption of occupational origin and any maximum period during which the presumption of occupational origin will remain valid after leaving the employment, regard should be had to the length of time required for the contraction and manifestation of the disease.

(6) Temporary incapacity compensation should be payable under conditions similar to those applicable to the payment of sickness benefit.

(7) Consideration should be given to the possibility of paying compensation from the first day of temporary incapacity if the incapacity lasts longer than the waiting period.

(8) Permanent incapacity compensation should be payable in respect of the loss or reduction of earning capacity by reason of the loss of a member or function or by reason of a chronic condition due to injury or disease.

(9) A person who becomes permanently incapacitated should be expected to resume employment in any occupation which may reasonably be indicated for him, having regard to his remaining strength and ability, his previous experience, and any facilities for training available to him.

(10) If no such employment can be offered, the person should receive compensation for total incapacity on a definitive or provisional basis.

(11) If such employment can be offered, but the sum which the person is able to earn by ordinary effort in the employment is significantly less than that which he would probably have earned had he not suffered the injury or disease, he should receive compensation for partial incapacity proportionate to the difference in earning capacity.

(12) Consideration should be given to the possibility of paying suitable compensation in every case of loss of a member or function or disfigurement, even where no reduction of capacity can be proved.

(13) Persons exposed to the risk of an occupational disease of gradual development should be examined periodically, and those for whom a change of occupation is indicated should be eligible for compensation.

(14) Compensation for permanent incapacity, total or partial, should be paid from the time when temporary incapacity compensation ceases for the whole duration of permanent incapacity.

(15) Persons receiving compensation for permanent partial incapacity should be able to qualify for other benefits under the same conditions as able-bodied persons, where the rates of such benefits are related to the previous earnings of the insured person.

(16) Where the rates of such benefits are not related to the previous earnings of the insured person, a maximum may be fixed for the combined rate of compensation and other benefit.

(17) Survivors' compensation should, subject to the provisions of the following subparagraphs, be paid to the same dependants as could otherwise qualify for survivors' benefits.

(18) A widow should receive compensation for the whole duration of her widowhood.

(19) A child should receive compensation until the age of eighteen, or twenty-one if he is continuing his general or vocational education.

(20) Provision should be made for compensating other members of the family of the deceased who were dependent upon him, without prejudice to the claims of the widow and children.

(21) The survivors of a person permanently incapacitated in the degree of two-thirds or more who dies otherwise than from the effects of an employment injury should be entitled to basic survivors' benefits, whether or not the deceased fulfilled the contribution conditions for such benefit at the time of his death.

## **B. Persons Covered**

### ***Range of Persons to Be Covered***

**17. Social insurance should afford protection, in the contingencies to which they are exposed, to all employed and self-employed persons, together with their dependants, in respect of whom it is practicable--**

**(a) to collect contributions without incurring disproportionate administrative expenditure; and**

**(b) to pay benefits with the necessary co-operation of medical and employment services and with due precautions against abuse.**

(1) Dependent wives (that is to say, wives who are not employed or self-employed) and dependent children (that is to say, persons who are under the school-leaving age, or who are under the age of eighteen and are continuing their general or vocational education) should be protected in virtue of the insurance of their breadwinners.

### ***Collection of Contributions***

**18. The employer should be made responsible for collecting contributions in respect of all persons employed by him, and should be entitled to deduct the sums due by them from their remuneration at the time when it is paid.**

(1) Where membership of an occupational association or the possession of a licence is compulsory for any class of self-employed persons, the association or the licensing authority may be made responsible for collecting contributions from the persons concerned.

(2) The national or local authority may be made responsible for collecting contributions from self-employed persons registered for the purpose of taxation.

(3) Pending the development of agencies to enforce payment of contributions, provision should be made for enabling self-employed persons to contribute voluntarily, either as individuals or as members of associations.

### ***Administration of Benefits***

**19. In order to facilitate the efficient administration of benefits, arrangements should be made for the keeping of records of contributions, for ready means of verifying the presence of the contingencies which give rise to benefits, and for a parallel organisation of medical and employment services with preventive and remedial functions.**

### ***Employed Persons***

**20. Persons employed for remuneration should be insured against the whole range of contingencies covered by social insurance as soon as the collection of contributions in respect of them can be organised and the necessary arrangements can be made for the administration of benefit.**

(1) Persons whose employment is so irregular, or likely to be so short in its total duration, that they are unlikely to qualify for benefit confined to employed persons, may be excluded from insurance for such benefits. Special provision should be made on behalf of persons who ordinarily work for a very short period for the same employer.

(2) Apprentices who receive no remuneration should be insured against employment injuries, and, as from the date at which they would have completed their apprenticeship for their trade, compensation based on the wages current for workers in that trade should become payable.

### ***Self-Employed Persons***

**21. Self-employed persons should be insured against the contingencies of invalidity, old age and death under the same conditions as employed persons as soon as the collection of their contributions can be organised. Consideration should be given to the possibility of insuring them also against sickness and maternity necessitating hospitalisation, sickness which has lasted for several months, and extraordinary expenses incurred in cases of sickness, maternity, invalidity and death.**

(1) Members of the employer's family living in his house, other than his dependent wife or dependent children, should be insured against the said contingencies on the basis of either their actual wages or, if these cannot be ascertained, the market value of their services; the employer should be responsible for the payment of contributions in respect of such persons.

(2) Self-employed persons whose earnings are ordinarily so low that they can be presumed to be a merely subsidiary or casual source of income, or that payment of the minimum contribution would be a hardship for them, should be excluded provisionally from insurance and referred for counsel to the employment service or to any special service that may exist for promoting the welfare of the occupational group to which they may belong.

(3) Persons who, after completing the contribution period prescribed as a qualification for invalidity and survivors' benefits, cease to be compulsorily insured, either as employed or as self-employed persons, should be given the option, to be exercised within a limited period, of continuing their insurance under the same conditions as self-employed persons, subject to such modifications as may be prescribed.

### **C. Benefit Rates and Contribution Conditions**

#### ***Benefit Rates***

**22. Benefits should replace lost earnings, with due regard to family responsibilities, up to as high a level as is practicable without impairing the will to resume work where resumption is a possibility, and without levying charges on the productive groups so heavy that output and employment are checked.**

**23. Benefits should be related to the previous earnings of the insured person on the basis of which he has contributed: Provided that any excess of earnings over those prevalent among skilled workers may be ignored for the purpose of determining the rate of benefits, or portions thereof, financed from sources other than the contributions of the insured person.**

**24. Benefits at flat rates may be appropriate for countries where adequate and economical facilities exist for the population to procure additional protection by voluntary insurance. Such benefits should be commensurate with the earnings of unskilled workers.**

(1) Sickness and unemployment benefits should, in the case of unskilled workers, be not less than 40 per cent. of the previous net earnings of the insured person if he has no dependants, or 60 per cent. thereof if he has a dependent wife or housekeeper for his children; for each of not more than two dependent children, an additional 10 per cent. of such earnings, less the amount of any children's allowances for these children, should be payable.

(2) In the case of workers with high earnings, the foregoing proportions of benefit to previous earnings may be somewhat reduced.

(3) Maternity benefit should in all cases be sufficient for the full and healthy maintenance of the mother and her child; it should be not less than 100 per cent. of the current net wage for female unskilled workers or 75 per cent. of the previous net earnings of the beneficiary, whichever is the greater, but may be reduced by the amount of any child's allowance payable in respect of the child.

(4) Basic invalidity and old-age benefits should be not less than 30 per cent. of the current wage commonly recognised for male unskilled workers in the district in which the beneficiary resides, if the beneficiary has no dependants, or 45 per cent. thereof if he has a dependent wife who would be qualified for widow's benefit or a housekeeper for his children; for each of not more than two dependent children, an additional 10 per cent.

of such wage, less the amount of any children's allowances for these children, should be payable.

(5) Basic widow's benefit should be not less than 30 per cent. of the current minimum wage commonly recognised for male unskilled workers in the district in which the beneficiary resides; for each of not more than three dependent children, child's benefit at the rate of 10 per cent. of such wage, less the amount of any children's allowances for these children, should be payable.

(6) In the case of an orphan, basic child's benefit should be not less than 20 per cent. of the current minimum wage commonly recognised for male unskilled workers, less the amount of any child's allowance payable in respect of the orphan.

(7) A portion of every contribution additional to those paid as a qualification for basic invalidity, old-age and survivors' benefits may be credited to the insured person for the purpose of increasing the benefits provided for in sub-paragraphs (4), (5) and (6).

(8) In every case in which retirement is deferred beyond the minimum age at which old-age benefit could have been claimed, basic old-age benefit should be equitably increased.

(9) Compensation for employment injuries should not be less than two-thirds of the wages lost, or estimated to have been lost, as the result of the injury.

(10) Such compensation should take the form of periodical payments, except in cases in which the competent authority is satisfied that the payment of a lump sum will be more advantageous to the beneficiary.

(11) Periodical payments in respect of permanent incapacity and death should be adjusted currently to significant changes in the wage level in the insured person's previous occupation.

#### *Contribution Conditions*

25. The right to benefits other than compensation for employment injuries should be subject to contribution conditions designed to prove that the normal status of the claimant is that of an employed or self-employed person and to maintain reasonable regularity in the payment of contributions: Provided that a person shall not be disqualified for benefits by reason of the failure of his employer duly to collect the contributions payable in respect of him.

(1) The contribution conditions for sickness, maternity and unemployment benefits may include the requirement that contributions shall have been paid in respect of at least a quarter

of a prescribed period, such as two years, completed before the contingency occurs.

(2) The contribution conditions for maternity benefit may include the requirement that the first contribution shall have been paid at least ten months before the expected date of confinement, but even though the contribution conditions are not fulfilled, maternity benefit at the minimum rate should be paid during the period of compulsory abstention from work after confinement, if the claimant's normal status appears, after consideration of the case, to be that of an employed person.

(3) The contribution conditions for basic invalidity, old-age and survivors' benefits may include the requirement that contributions shall have been paid in respect of at least two-fifths of a prescribed period, such as five years, completed before the contingency occurs; payment of contributions in respect of not less than three-quarters of a prescribed period, such as ten years, or of any longer period which has elapsed since entry into insurance, should be recognised as an alternative qualification for benefit.

(4) The contribution conditions for old-age benefit may include the requirement that the first contribution shall have been paid at least five years before the claim for benefit is made.

(5) The right to benefit may be suspended where an insured person wilfully fails to pay any contribution due by him in respect of any period of self-employment or to pay any penalty imposed for late payment of contributions.

(6) The insurance status of an insured person at the date when he becomes entitled to invalidity or old-age benefit should be maintained during the currency of such benefit for the purposes of ensuring him, in the event of recovery from invalidity, as full protection under the scheme as he was entitled to on the occurrence of the invalidity, and of entitling his survivors to survivors' benefits.

#### **D. Distribution of Cost**

**26. The cost of benefits, including the cost of administration, should be distributed among insured persons, employers and taxpayers, in such a way as to be equitable to insured persons and to avoid hardship to insured persons of small means or any disturbance to production.**

(1) The contribution of an insured person should not exceed such proportion of his earnings taken into account for reckoning benefits as, applied to the estimated average earnings of all persons insured against the same contingencies, would yield a contribution income the probable present value of which would equal the probable present value of the

benefits to which they may become entitled (excluding compensation for employment injuries).

(2) In accordance with this principle the contributions of employed persons and self-employed persons for the same benefits may, as a rule, represent the same proportion of their respective earnings.

(3) A minimum absolute rate, based on the minimum rate of earnings which may be deemed to be indicative of substantial gainful work, may be prescribed for the insured person's contribution with respect to benefits the whole or part of which does not vary with the rate of previous earnings.

(4) Employers should be required to contribute, particularly by subsidising the insurance of low-wage earners, not less than half the total cost of benefits confined to employed persons, excluding compensation for employment injuries.

(5) The entire cost of compensation for employment injuries should be contributed by employers.

(6) Consideration should be given to the possibility of applying some method of merit rating in the calculation of contributions in respect of compensation for employment injuries.

(7) The rates of contribution of insured persons and employers should be kept as stable as possible, and for this purpose a stabilisation fund should be constituted.

(8) The cost of benefits which cannot properly be met by contributions should be covered by the community.

(9) Among the elements of cost which may be charged to the community may be mentioned:

- (a) the contribution deficit resulting from bringing persons into insurance when already elderly;
- (b) the contingent liability involved in guaranteeing the payment of basic invalidity, old-age and survivors' benefits and the payment of adequate maternity benefit;
- (c) the liability resulting from the continued payment of unemployment benefit when unemployment persists at an excessive level; and
- (d) subsidies to the insurance of self-employed persons of small means.

#### **E. Administration**

**27. The administration of social insurance should be unified or co-ordinated within a general system of social security services, and contributors should,**

**through their organisations, be represented on the bodies which determine or advise upon administrative policy and propose legislation or frame regulations.**

(1) Social insurance should be administered under the direction of a single authority, subject, in federal countries, to the distribution of legislative competence; this authority should be associated with the authorities administering social assistance, medical care services and employment services in a co-ordinating body for matters of common interest, such as the certification of inability to work or to obtain work.

(2) The unified administration of social insurance should be compatible with the operation of separate insurance schemes, compulsory or voluntary in character, providing supplementary, but not alternative, benefits for certain occupational groups, such as miners and seamen, public officials, the staffs of individual undertakings and members of mutual benefit societies.

(3) The law and regulations relating to social insurance should be drafted in such a way that beneficiaries and contributors can easily understand their rights and duties.

(4) In devising procedures to be followed by beneficiaries and contributors, simplicity should be a primary consideration.

(5) Central and regional advisory councils, representing such bodies as trade unions, employers' associations, chambers of commerce, farmers' associations, women's associations and child protection societies, should be established for the purpose of making recommendations for the amendment of the law and administrative methods, and generally of maintaining contact between the administration of social insurance and groups of contributors and beneficiaries.

(6) Employers and workers should be closely associated with the administration of compensation for employment injuries, particularly in connection with the prevention of accidents and occupational diseases and with merit rating.

(7) Claimants should have a right of appeal in case of dispute with the administrative authority concerning such questions as the right to benefit and the rate thereof.

(8) Appeals should preferably be referred to special tribunals, which should include referees who are experts in social insurance law, assisted by assessors, representative of the group to which the claimant belongs, and, where employed persons are concerned, by representatives of employers also.

(9) In any dispute concerning liability to insurance or the rate of contribution, an

employed or self-employed person, and, where an employer's contribution is in question, an employer should have a right of appeal.

(10) Provision for uniformity of interpretation should be assured by a superior appeal tribunal.

## II. SOCIAL ASSISTANCE

### A. Maintenance of Children

**28. Society should normally co-operate with parents through general measures of assistance designed to secure the well-being of dependent children.**

(1) Public subsidies in kind or in cash or in both should be established in order to assure the healthy nurture of children, help to maintain large families, and complete the provision made for children through social insurance.

(2) Where the purpose in view is to assure the healthy nurture of children, subsidies should take the form of such advantages as free or below-cost infants' food and school meals and below-cost dwellings for families with several children.

(3) Where the purpose in view is to help to maintain large families or to complete the provision made for children by subsidies in kind and through social insurance, subsidies should take the form of children's allowances.

(4) Such allowances should be payable, irrespective of the parents' income, according to a prescribed scale, which should represent a substantial contribution to the cost of maintaining a child, should allow for the higher cost of maintaining older children, and should, as a minimum, be granted to all children for whom no provision is made through social insurance.

(5) Society as a whole should accept responsibility for the maintenance of dependent children in so far as parental responsibility for maintaining them cannot be enforced.

### B. Maintenance of Needy Invalids, Aged Persons and Widows

**29. Invalids, aged persons and widows who are not receiving social insurance benefits because they or their husbands, as the case may be, were not compulsorily insured, and whose incomes do not exceed**

**a prescribed level, should be entitled to special maintenance allowances at prescribed rates.**

(1) The persons who should be entitled to maintenance allowances should include:

(a) persons belonging to occupational groups, or residing in districts to which social insurance does not yet apply, or has not yet applied for as long as the qualifying period for basic invalidity, old-age or survivors' benefits, as the case may be, and the widows and dependent children of such persons; and

(b) persons who are already invalids at the time when they would normally enter insurance.

(2) Maintenance allowances should be sufficient for full, long-term maintenance; they should vary with the current cost of living, and may vary as between urban and rural areas.

(3) Maintenance allowances should be paid at the full rate to persons whose other income does not exceed a prescribed level and at reduced rates in other cases.

(4) The provisions of the present Recommendation defining the contingencies in which invalidity, old-age and survivors' benefits should be paid should be applied, in so far as they are relevant, to maintenance allowances.

### C. General Assistance

**30. Appropriate allowances in cash or partly in cash and partly in kind should be provided for all persons who are in want and do not require internment for corrective care.**

(1) The range of cases in which the amount of the allowance is entirely discretionary should be gradually narrowed as the result of the improved classification of cases of want and establishment of budgets corresponding to the cost of maintenance in short-term and long-term indigency.

(2) The grant of allowance may be subject to compliance by the recipient with directions given by the authorities administering medical or employment services in order that the assistance may yield its greatest constructive effect.

## R069 – Medical Care Recommendation, 1944

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Philadelphia by the Governing Body of the International Labour

Office, and having met in its Twenty-sixth Session on 20 April 1944, and

Having decided upon the adoption of certain proposals with regard to the question of medical care services, which is included in the fourth item on the agenda of the Session, and  
Having determined that these proposals shall take the form of a Recommendation,

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

Whereas the Atlantic Charter contemplates the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social security; and

Whereas the Conference of the International Labour Organisation, by a Resolution adopted on 5 November 1941, endorsed this principle of the Atlantic Charter and pledged the full co-operation of the International Labour Organisation in its implementation; and

Whereas the availability of adequate medical care is an essential element in social security; and

Whereas the International Labour Organisation has promoted the development of medical care services:

- by the inclusion of requirements relating to medical care in the Workmen's Compensation (Accidents) Convention, 1925, and the Sickness Insurance (Industry, etc.) and (Agriculture) Conventions, 1927,
- by the communication to the Members of the Organisation by the Governing Body of the conclusions of meetings of experts relating to public health and health insurance in periods of economic depression, the economical administration of medical and pharmaceutical benefits under sickness insurance schemes, and guiding principles for curative and preventive action by invalidity, old-age and widows' and orphans' insurance,
- by the adoption by the First and Second Labour Conferences of American States of the Resolutions constituting the Inter-American Social Insurance Code, by the participation of a delegation of the Governing Body in the First Inter-American Conference on Social Security which adopted the Declaration of Santiago de Chile, and by the approval by the Governing Body of the Statute of the Inter-American Conference on Social Security, established as a permanent agency of co-operation between social security

administrations and institutions acting in concert with the International Labour Office, and

- by the participation of the International Labour Office in an advisory capacity in the framing of social insurance schemes in a number of countries and by other measures; and

Whereas some Members have not taken such steps as are within their competence to improve the health of the people by the extension of medical facilities, the development of public health programmes, the spread of health education, and the improvement of nutrition and housing, although their need in that respect is greatest, and it is highly desirable that such Members take all steps as soon as possible to reach the international minimum standards and to develop these standards; and

Whereas it is now desirable to take further steps for the improvement and unification of medical care services, the extension of such services to all workers and their families, including rural populations and the self-employed, and the elimination of inequitable anomalies, without prejudice to the right of any beneficiary of the medical care service who so desires to arrange privately at his own expense for medical care; and

Whereas the formulation of certain general principles which should be followed by Members of the Organisation in developing their medical care services along these lines will contribute to this end;

The Conference recommends the Members of the Organisation to apply the following principles, as rapidly as national conditions allow, in developing their medical care services with a view to the implementation of the fifth principle of the Atlantic Charter, and to report to the International Labour Office, as requested by the Governing Body, concerning the measures taken to give effect to these principles:

### **I. General**

#### **ESSENTIAL FEATURES OF A MEDICAL CARE SERVICE**

1. A medical care service should meet the need of the individual for care by members of the medical and allied professions and for such other facilities as are provided at medical institutions:
  - (a) with a view to restoring the individual's health, preventing the further development of disease and alleviating suffering, when he is afflicted by ill health (curative care); and

- (b) with a view to protecting and improving his health (preventive care).
- 2. The nature and extent of the care provided by the service should be defined by law.
- 3. The authorities or bodies responsible for the administration of the service should provide medical care for its beneficiaries by securing the services of members of the medical and allied professions and by arranging for hospital and other institutional services.
- 4. The cost of the service should be met collectively by regular periodical payments which may take the form of social insurance contributions or of taxes, or of both.

#### FORMS OF MEDICAL CARE SERVICE

- 5. Medical care should be provided either through a social insurance medical care service with supplementary provision by way of social assistance to meet the requirements of needy persons not yet covered by social insurance, or through a public medical care service.
- 6. Where medical care is provided through a social insurance medical care service--
  - (a) every insured contributor, the dependent wife or husband and dependent children of every such contributor, such other dependants as may be prescribed by national laws or regulations, and every other person insured by virtue of contributions paid on his behalf, should be entitled to all care provided by the service;
  - (b) care for persons not yet insured should be provided by way of social assistance if they are unable to obtain it at their own expense; and
  - (c) the service should be financed by contributions from insured persons, from their employers, and by subsidies from public funds.
- 7. Where medical care is provided through a public medical care service--
  - (a) every member of the community should be entitled to all care provided by the service;
  - (b) the service should be financed out of funds raised either by a progressive tax specifically imposed for the purpose of financing the medical care service or of financing all health services, or from general revenue.

#### II. Persons covered

##### COMPLETE COVERAGE

- 8. The medical care service should cover all members of the community, whether or not they are gainfully occupied.

9. Where the service is limited to a section of the population or to a specified area, or where the contributory mechanism already exists for other branches of social insurance and it is possible ultimately to bring under the insurance scheme the whole or the majority of the population, social insurance may be appropriate.

10. Where the whole of the population is to be covered by the service and it is desired to integrate medical care with general health services, a public service may be appropriate.

##### COVERAGE THROUGH A SOCIAL INSURANCE MEDICAL CARE SERVICE

11. Where medical care is provided through a social insurance medical care service, all members of the community should have the right to care as insured persons or, pending their inclusion in the scope of insurance, should have the right to receive care at the expense of the competent authority when unable to provide it for themselves.

12. All adult members of the community (that is to say, all persons other than children as defined in Paragraph 15) should be required to pay insurance contributions if their income is not below the subsistence level. The dependent wife or husband of a contributor should be insured in virtue of the contribution of her or his breadwinner, without any addition on that account.

13. Other adults who prove that their income is below the subsistence level, including indigents, should be entitled to care as insured persons, the contribution being paid on their behalf by the competent authority. Rules defining the subsistence level in each country should be laid down by the competent authority.

14. If and so long as adults unable to pay a contribution are not insured as provided for in Paragraph 13, they should receive care at the expense of the competent authority.

15. All children (that is to say, all persons who are under the age of sixteen years, or such higher age as may be prescribed, or who are dependent on others for regular support while continuing their general or vocational education) should be insured in virtue of the contributions paid by or on behalf of adult insured persons in general, and no additional contribution should be payable on their behalf by their parents or guardians.

16. If and so long as children are not insured as provided for in Paragraph 15, because the service does not yet extend to the whole population, they should be insured in virtue of the contribution paid by or on behalf of their father or mother without any additional

contribution being payable on their behalf. Children for whom medical care is not so provided should, in case of need, receive it at the expense of the competent authority.

17. Where any person is insured under a scheme of social insurance for cash benefits or is receiving benefit under such a scheme, he and his qualified dependants, as defined in Paragraph 6, should also be insured under the medical care service.

#### COVERAGE THROUGH A PUBLIC MEDICAL CARE SERVICE

18. Where medical care is provided through a public medical care service, the provision of care should not depend on any qualifying conditions, such as payment of taxes or compliance with a means test, and all beneficiaries should have an equal right to the care provided.

### III. The Provision of Medical Care and Its Co-Ordination with General Health Services

#### RANGE OF SERVICE

19. Complete preventive and curative care should be constantly available, rationally organised and, so far as possible, co-ordinated with general health services.

#### CONSTANT AVAILABILITY OF COMPLETE CARE

20. Complete preventive and curative care should be available at any time and place to all members of the community covered by the service, on the same conditions, without any hindrance or barrier of an administrative, financial or political nature, or otherwise unrelated to their health.

21. The care afforded should comprise both general-practitioner and specialist out- and in-patient care, including domiciliary visiting; dental care; nursing care at home or in hospital or other medical institutions; the care given by qualified midwives and other maternity services at home or in hospital; maintenance in hospitals, convalescent homes, sanatoria or other medical institutions; so far as possible, the requisite dental, pharmaceutical and other medical or surgical supplies, including artificial limbs; and the care furnished by such other professions as may at any time be legally recognised as belonging to the allied professions.

22. All care and supplies should be available at any time and without time limit, when and as long as they are needed, subject only to the doctor's judgment and to such reasonable limitations as may be imposed by the technical organisation of the service.

23. Beneficiaries should be able to obtain care at the centres or offices provided, wherever they happen to be when the need arises, whether at their place of residence or elsewhere within the total area in which the service is available, irrespective of their membership in any particular insurance institution, arrears in contributions or of other factors unrelated to health.

24. The administration of the medical care service should be unified for appropriate health areas sufficiently large for a self-contained and well-balanced service, and should be centrally supervised.

25. Where the medical care service covers only a section of the population or is at present administered by different types of insurance institutions and authorities, the institutions and authorities concerned should provide care for their beneficiaries by securing collectively the services of members of the medical and allied professions, and by the joint establishment or maintenance of health centres and other medical institutions, pending the regional and national unification of the services.

26. Arrangements should be made by the administration of the service for securing adequate hospital and other residential accommodation and care, either by contracts with existing public and approved private institutions, or by the establishment and maintenance of appropriate institutions.

#### RATIONAL ORGANISATION OF MEDICAL CARE SERVICE

27. The optimum of medical care should be made readily available through an organisation that ensures the greatest possible economy and efficiency by the pooling of knowledge, staff, equipment and other resources and by close contact and collaboration among all participating members of the medical and allied professions and agencies.

28. The wholehearted participation of the greatest possible number of members of the medical and allied professions is essential for the success of any national medical care service. The numbers of general practitioners, specialists, dentists, nurses and members of other professions within the service should be adapted to the distribution and the needs of the beneficiaries.

29. Complete diagnostic and treatment facilities, including laboratory and X-ray services, should be available to the general practitioner, and all specialist advice and care, as well as nursing, maternity, pharmaceutical and other auxiliary services, and residential accommodation, should be at the disposal of

the general practitioner for the use of his patients.

30. Complete and up-to-date technical equipment for all branches of specialist treatment, including dental care, should be available, and specialists should have at their disposal all necessary hospital and research facilities, and auxiliary out-patient services such as nursing, through the agency of the general practitioner.

31. To achieve these aims, care should preferably be furnished by group practice at centres of various kinds working in effective relation with hospitals.

32. Pending the establishment of, and experiments with, group practice at medical or health centres, it would be appropriate to obtain care for beneficiaries from members of the medical and allied professions practising at their own offices.

33. Where the medical care service covers the majority of the population, medical or health centres may appropriately be built, equipped and operated by the authority administering the service in the health area, in one of the forms indicated in Paragraphs 34, 35 and 36.

34. Where no adequate facilities exist or where a system of hospitals with out-patient departments for general-practitioner and specialist treatment already obtains in the health area at the time when the medical care service is introduced, hospitals may appropriately be established as, or developed into, centres providing all kinds of in- and out-patient care and complemented by local outposts for general-practitioner care and for auxiliary services.

35. Where general practice is well developed outside the hospital system while specialists are mainly consultants and working at hospitals, it may be appropriate to establish medical or health centres for non-residential general-practitioner care and auxiliary services, and to centralise specialist in-patient and out-patient care at hospitals.

36. Where general and specialist practice are well developed outside the hospital system, it may be appropriate to establish medical or health centres for all non-residential treatment, general-practitioner and specialist, and all auxiliary services, while cases needing residential care are directed from the centres to the hospitals.

37. Where the medical care service does not cover the majority of the population but has a substantial number of beneficiaries, and existing hospital and other medical facilities are inadequate, the insurance institution, or

insurance institutions jointly, should establish a system of medical or health centres which affords all care, including hospital accommodation at the main centres, and, so far as possible, transport arrangements; such centres may be required more particularly in sparsely settled areas with a scattered insured population.

38. Where the medical care service covers too small a section for complete health centres to be an economical means of serving its beneficiaries, and existing facilities for specialist treatment in the area are inadequate, it may be appropriate for the insurance institution, or the institutions jointly, to maintain posts at which specialists attend beneficiaries as required.

39. Where the medical care service covers a relatively small section of the population concentrated in an area with extensive private practice, it may be appropriate for the members of the medical and allied professions participating in the service to collaborate at centres rented, equipped and administered by the members, at which both beneficiaries of the service and private patients receive care.

40. Where the medical care service covers only a small number of beneficiaries who are scattered over a populated area with adequate existing facilities, and voluntary group practice as provided for in Paragraph 39 is not feasible, beneficiaries may appropriately receive care from members of the medical and allied professions practising at their own offices, and at public and approved private hospitals and other medical institutions.

41. Travelling clinics in motor vans or aircraft, equipped for first aid, dental treatment, general examination and possibly other health services such as maternal and infant health services, should be provided for serving areas with a scattered population and remote from towns or cities, and arrangements should be made for the free conveyance of patients to centres and hospitals.

#### COLLABORATION WITH GENERAL HEALTH SERVICES

42. There should be available to the beneficiaries of the medical care service all general health services, being services providing means for the whole community and/or groups of individuals to promote and protect their health while it is not yet threatened or known to be threatened, whether such services be given by members of the medical and allied professions or otherwise.

43. The medical care service should be provided in close co-ordination with general

health services, either by means of close collaboration of the social insurance institutions providing medical care and the authorities administering the general health services, or by combining medical care and general health services in one public service.

44. Local co-ordination of medical care and general health services should be aimed at either by establishing medical care centres in proximity to the headquarters for general health services, or by establishing common centres as headquarters for all or most health services.

45. The members of the medical and allied professions participating in the medical care service and working at health centres may appropriately undertake such general health care as can with advantage be given by the same staff, including immunisation, examination of school children and other groups, advice to expectant mothers and mothers with infants, and other care of a like nature.

#### **IV. THE QUALITY OF SERVICE OPTIMUM STANDARD**

46. The medical care service should aim at providing the highest possible standard of care, due regard being paid to the importance of the doctor-patient relationship and the professional and personal responsibility of the doctor, while safeguarding both the interests of the beneficiaries and those of the professions participating.

#### **CHOICE OF DOCTOR AND CONTINUITY OF CARE**

47. The beneficiary should have the right to make an initial choice, among the general practitioners at the disposal of the service within a reasonable distance from his home, of the doctor by whom he wishes to be attended in a permanent capacity (family doctor); he should have the same right of choice for his children. These principles should also apply to the choice of a dentist as family dentist.

48. Where care is provided at or from health centres, the beneficiary should have the right to choose his centre within a reasonable distance from his home and to select for himself or his children a doctor and a dentist among the general practitioners and dentists working at this centre.

49. Where there is no centre, the beneficiary should have the right to select his family doctor and dentist among the participating general practitioners and dentists whose office is within a reasonable distance from his home.

50. The beneficiary should have the right subsequently to change his family doctor or

dentist, subject to giving notice within a prescribed time, for good reasons, such as lack of personal contact and confidence.

51. The general practitioner or the dentist participating in the service should have the right to accept or refuse a client, but may not accept a number in excess of a prescribed maximum nor refuse such clients as have not made their own choice and are assigned to him by the service through impartial methods.

52. The care given by specialists and members of allied professions, such as nurses, midwives, masseurs and others, should be available on the recommendation, and through the agency, of the beneficiary's family doctor who should take reasonable account of the patient's wishes if several members of the specialty or other profession are available at the centre or within a reasonable distance of the patient's home. Special provision should be made for the availability of the specialist when requested by the patient though not recommended by the family doctor.

53. Residential care should be made available on the recommendation of the beneficiary's family doctor, or on the advice of the specialist, if any, who has been consulted.

54. If residential care is provided at the centre to which the family doctor or specialist is attached, the patient should preferably be attended in the hospital by his own family doctor or the specialist to whom he was referred.

55. Arrangements for the general practitioners or dentists at a centre to be consulted by appointment should be made whenever practicable.

#### **WORKING CONDITIONS AND STATUS OF DOCTORS AND MEMBERS OF ALLIED PROFESSIONS**

56. The working conditions of doctors and members of allied professions participating in the service should be designed to relieve the doctor or member from financial anxiety by providing adequate income during work, leave and illness and in retirement, and pensions to his survivors, without restricting his professional discretion otherwise than by professional supervision, and should not be such as to distract his attention from the maintenance and improvement of the health of the beneficiaries.

57. General practitioners, specialists and dentists, working for a medical care service covering the whole or a large majority of the population, may appropriately be employed whole time for a salary, with adequate provision for leave, sickness, old age and

death, if the medical profession is adequately represented on the body employing them.

58. Where general practitioners or dentists, engaged in private practice, undertake part-time work for a medical care service with a sufficient number of beneficiaries, it may be appropriate to pay them a fixed basic amount per year, including provision for leave, sickness, old age and death, and increased if desired by a capitation fee for each person or family in the doctor's or dentist's charge.

59. Specialists engaged in private practice who work part time for a medical care service with a considerable number of beneficiaries may appropriately be paid an amount proportionate to the time devoted to such service (part-time salary).

60. Doctors and dentists engaged in private practice who work part time for a medical care service with few beneficiaries only may appropriately be paid fees for services rendered.

61. Among the members of allied professions participating in the service, those rendering personal care may appropriately be employed whole time for salary, with adequate provision for leave, sickness, old age and death, while members furnishing supplies should be paid in accordance with adequate tariffs.

62. Working conditions for members of the medical and allied professions participating in the service should be uniform throughout the country or for all sections covered by the service, and agreed on with the representative bodies of the profession, subject only to such variations as may be necessitated by differences in the exigencies of the service.

63. Provisions should be made for the submission of complaints by beneficiaries concerning the care received, and by members of the medical or allied professions concerning their relations with the administration of the service, to appropriate arbitration bodies under conditions affording adequate guarantees to all parties concerned.

64. The professional supervision of the members of the medical and allied professions working for the service should be entrusted to bodies predominantly composed of representatives of the professions participating, with adequate provision for disciplinary measures.

65. Where, in the proceedings referred to in Paragraph 63, a member of the medical or allied professions working for the service is deemed to have neglected his professional duties, the arbitration body should refer the matter to the supervisory body referred to in Paragraph 64.

#### STANDARD OF PROFESSIONAL SKILL AND KNOWLEDGE

66. The highest possible standard of skill and knowledge should be achieved and maintained for the professions participating both by requiring high standards of education, training and licensing and by keeping up to date and developing the skill and knowledge of those engaged in the service.

67. Doctors participating in the service should be required to have an adequate training in social medicine.

68. Students of the medical and dental professions should, before being admitted as fully qualified doctors or dentists to the service, be required to work as assistants at health centres or offices, especially in rural areas, under the supervision and direction of more experienced practitioners.

69. A minimum period as hospital assistant should be prescribed among the qualifications for every doctor entering the service.

70. Doctors wishing to furnish specialist service should be required to have certificates of competence for their speciality.

71. Doctors and dentists participating should be required periodically to attend post-graduate courses organised or approved for this purpose.

72. Adequate periods of apprenticeship at hospitals or health centres should be prescribed for members of allied professions, and post-graduate courses should be organised and attendance periodically required for those participating in the service.

73. Adequate facilities for teaching and research should be made available at the hospitals administered by or working with the medical care service.

74. Professional education and research should be promoted with the financial and legal support of the State.

#### V. Financing of Medical Care Service

##### RAISING OF FUNDS UNDER SOCIAL INSURANCE SERVICE

75. The maximum contribution that may be charged to an insured person should not exceed such proportion of his income as, applied to the income of all insured persons, would yield an income equal to the probable total cost of the medical care service, including the cost of care given to qualified dependants as defined in Paragraph 6.

76. The contribution paid by an insured person should be such part of the maximum contribution as can be borne without hardship.

77. Employers should be required to pay part of the maximum contribution on behalf of persons employed by them.

78. Persons whose income does not exceed the subsistence level should not be required to pay an insurance contribution. Equitable contributions should be paid by the public authority on their behalf: Provided that in the case of employed persons, such contributions may be paid wholly or partly by their employers.

79. The cost of the medical care service not covered by contributions should be borne by taxpayers.

80. Contributions in respect of employed persons may appropriately be collected by their employers.

81. Where membership of an occupational association or the possession of a licence is compulsory for any class of self-employed persons, the association or the licensing authority may be made responsible for collecting contributions from the persons concerned.

82. The national or local authority may be made responsible for collecting contributions from self-employed persons registered for the purpose of taxation.

83. Where a scheme of social insurance for cash benefits is in operation, contributions both under such scheme and under the medical care service may appropriately be collected together.

#### RAISING OF FUNDS UNDER PUBLIC MEDICAL CARE SERVICE

84. The cost of the medical care service should be met out of public funds.

85. Where the whole population is covered by the medical care service and all health services are under unified central and area administration, the medical care service may appropriately be financed out of general revenue.

86. Where the administration of the medical care service is separate from that of general health services, it may be appropriate to finance the medical care service by a special tax.

87. The special tax should be paid into a separate fund reserved for the purpose of financing the medical care service.

88. The special tax should be progressively graded and should be designed to yield a return sufficient for financing the medical care service.

89. Persons whose income does not exceed the subsistence level should not be required to pay the tax.

90. The special tax may appropriately be collected by the national income tax authorities or, where there is no national income tax, by authorities responsible for collecting local taxes.

#### RAISING OF CAPITAL FUNDS

91. In addition to providing the normal resources for financing the medical care service, measures should be taken to utilise the assets of social insurance institutions, or funds raised by other means, for financing the extraordinary expenditure necessitated by the extension and improvement of the service, more particularly by the building or equipment of hospitals and medical centres.

### VI. SUPERVISION AND ADMINISTRATION OF MEDICAL CARE SERVICE

#### UNITY OF HEALTH SERVICES AND DEMOCRATIC CONTROL

92. All medical care and general health services should be centrally supervised and should be administered by health areas as defined in Paragraph 24, and the beneficiaries of the medical care service, as well as the medical and allied professions concerned, should have a voice in the administration of the service.

#### UNIFICATION OF CENTRAL ADMINISTRATION

93. A central authority, representative of the community, should be responsible for formulating the health policy or policies and for supervising all medical care and general health services, subject to consultation of, and collaboration with, the medical and allied professions on all professional matters, and to consultation of the beneficiaries on matters of policy and administration affecting the medical care service.

94. Where the medical care service covers the whole or the majority of the population and a central government agency supervises or administers all medical care and general health services, beneficiaries may appropriately be deemed to be represented by the head of the agency.

95. The central government agency should keep in touch with the beneficiaries through advisory bodies comprising representatives of organisations of the different sections of the population, such as trade unions, employers' associations, chambers of commerce, farmers' associations, women's associations and child protection societies.

96. Where the medical care service covers only a section of the population, and a central government agency supervises all medical care and general health services,

representatives of the insured persons should participate in the supervision, preferably through advisory committees, as regards all matters of policy affecting the medical care service.

97. The central government agency should consult the representatives of the medical and allied professions, preferably through advisory committees, on all questions relating to the working conditions of the members of the professions participating, and on all other matters primarily of a professional nature, more particularly on the preparation of laws and regulations concerning the nature, extent and provision of the care furnished under the service.

98. Where the medical care service covers the whole or the majority of the population and a representative body supervises or administers all medical care and general health services, beneficiaries should be represented on such body, either directly or indirectly.

99. In this event, the medical and allied professions should be represented on the representative body, preferably in numbers equal to those of the beneficiaries or the government as the case may be; the professional members should be elected by the profession concerned, or nominated by their representatives and appointed by the central government.

100. Where the medical care service covers the whole or the majority of the population and a corporate body of experts established by legislation or by charter supervises or administers all medical care and general health services, such body may appropriately consist of an equal number of members of the medical and allied professions and of qualified laymen.

101. The professional members of the expert body should be appointed by the central government from among candidates nominated by the representatives of the medical and allied professions.

102. The representative executive body or the expert body supervising or administering medical care and general health services should be responsible to the government for its general policy.

103. In the case of a federal State, the central authority referred to in the preceding Paragraphs may be either a federal or a state authority.

#### LOCAL ADMINISTRATION

104. Local administration of medical care and general health services should be unified or co-ordinated within areas formed for the

purpose as provided for in Paragraph 24, and the medical care service in the area should be administered by or with the advice of bodies representative of the beneficiaries and partly composed of, or assisted by, representatives of the medical and allied professions, so as to safeguard the interests of the beneficiaries and the professions, and secure the technical efficiency of the service and the professional freedom of the participating doctors.

105. Where the medical care service covers the whole or the majority of the population in the health area, all medical care and general health services may appropriately be administered by one area authority.

106. Where, in this event, the area government administers the health services on behalf of the beneficiaries, the medical and allied professions should participate in the administration of the medical care service, preferably through technical committees elected by the professions or appointed by the area or central government from among nominees of the professions concerned.

107. Where a medical care service covering the whole or the majority of the population in the health area is administered by a representative body, the area government, on behalf of the beneficiaries, and the medical and allied professions in the area, should be represented on such body, preferably in equal numbers.

108. Where the medical service is administered by area offices or officers of the central authority, the medical and allied professions in the area should participate in the administration, preferably through executive technical committees, elected or appointed in the manner provided for in Paragraph 106.

109. Whatever the form of the area administration, the authority administering the medical care service should keep in constant touch with the beneficiaries in the area through advisory bodies, elected by representative organisations of the different sections of the population, in the manner provided for in Paragraph 95.

110. Where the social insurance medical care service covers only a section of the population, administration of that service may appropriately be entrusted to a representative executive body responsible to the government, and comprising representatives of the beneficiaries, of the medical and allied professions participating in the service and of the employers.

#### ADMINISTRATION OF HEALTH UNITS

111. Health units owned and operated by the medical care service, such as medical or health centres or hospitals, should be administered under democratic control with adequate provisions for the participation of the medical profession, or wholly or predominantly by doctors elected by, or appointed after consultation of, the members of the medical and allied professions participating in the medical care service, in co-operation with all the doctors working at the unit.

#### RIGHT OF APPEAL

112. Beneficiaries or members of the medical or allied professions who have submitted complaints to the arbitration body

referred to in Paragraph 63 should have a right of appeal from the decisions of such body to an independent tribunal.

113. Members of the medical and allied professions against whom disciplinary measures have been taken by the supervisory body referred to in Paragraph 64 should have a right of appeal from the decisions of such body to an independent tribunal.

114. Where the supervisory body referred to in Paragraph 64 takes no disciplinary action on a matter referred to it by the arbitration body, in accordance with Paragraph 65, the interested parties should have a right of appeal to an independent tribunal.

## R121 – Employment Injury Benefits Recommendation, 1964

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-eighth Session on 17 June 1964, and

Having decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases, 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 Employment Injury Benefits Convention, 1964,

adopts this eighth day of July of the year one thousand nine hundred and sixty-four, the following Recommendation, which may be cited as the Employment Injury Benefits Recommendation, 1964:

1. In this Recommendation:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases.

2. Each Member should extend the application of its legislation providing for employment injury benefits, if necessary by stages, to any categories of employees which may have been excepted in virtue of Article 4, paragraph 2, of the Employment Injury Benefits

Convention, 1964, from the protection provided for in that Convention.

3. (1) Each Member should, subject to prescribed conditions, secure the provision of employment injury or analogous benefits, if necessary by stages and/or through voluntary insurance, to:

- (a) members of co-operatives who are engaged in the production of goods or the provision of services;
- (b) prescribed categories of self-employed persons, in particular persons owning and actively engaged in the operation of small-scale businesses or farms;
- (c) certain categories of persons working without pay, which should include:
  - (i) persons in training, undergoing an occupational or trade test or otherwise preparing for their future employment, including pupils and students;
  - (ii) members of volunteer bodies charged with combating natural disasters, with saving lives and property or with maintaining law and order;
  - (iii) other categories of persons not otherwise covered who are active in the public interest or engaged in civic or benevolent pursuits, such as persons volunteering their services for public office, social service or hospitals;
  - (iv) prisoners and other detained persons doing work which has been required or approved by the competent authorities.

(2) The financial resources of voluntary insurance for the categories referred to in subparagraph (1) of this Paragraph should not be provided from contributions intended to finance the compulsory schemes for employees.

4. Special schemes applicable to seafarers, including seafishermen, and to public servants should provide benefits in case of an employment injury which are not less favourable than those provided for in the Employment Injury Benefits Convention, 1964.

5. Each Member should, under prescribed conditions, treat the following as industrial accidents:

- (a) accidents, regardless of their cause, sustained during working hours at or near the place of work or at any place where the worker would not have been except for his employment;
- (b) accidents sustained within reasonable periods before and after working hours in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes;
- (c) accidents sustained while on the direct way between the place of work and--
  - (i) the employee's principal or secondary residence; or
  - (ii) the place where the employee usually takes his meals; or
  - (iii) the place where he usually receives his remuneration.

6. Each Member should, under prescribed conditions, regard diseases known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations as occupational diseases.

(2) Unless proof to the contrary is brought, there should be a presumption of the occupational origin of such diseases where the employee:

- (a) was exposed for at least a specified period; and
- (b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure.

(3) When prescribing and bringing up to date national lists of occupational diseases, Members should give special consideration to any list of occupational diseases which may from time to time be approved by the Governing Body of the International Labour Office.

7. Where national legislation contains a list establishing a presumption of occupational origin in respect of certain diseases, proof

should be permitted of the occupational origin of diseases not so listed and of diseases listed when they manifest themselves under conditions different from those establishing a presumption of their occupational origin.

8. Cash benefits in respect of incapacity for work should be paid from the first day in each case of suspension of earnings.

9. The rates of cash benefits in respect of temporary or initial incapacity for work, or in respect of total loss of earning capacity likely to be permanent, or corresponding loss of faculty, should be:

- (a) not less than two-thirds of the injured person's earnings: Provided that a maximum limit may be prescribed for the rate of benefit or for the earnings taken into account for the calculation of the benefit; or
- (b) where such benefits are provided at flat rates, not less than two-thirds of the average earnings of persons employed in the major group of economic activities with the largest number of economically active male persons.

10. (1) The cash benefit payable by reason of loss of earning capacity likely to be permanent, or corresponding loss of faculty, should take the form of a periodical payment for the duration of such loss in all cases in which the degree of loss equals at least 25 per cent.

(2) In cases in which the degree of loss of earning capacity likely to be permanent, or corresponding loss of faculty, is less than 25 per cent. a lump sum may be paid in lieu of a periodical payment. Such lump sum should bear an equitable relationship to periodical payments and should not be less than the periodical payments which would be due in respect of a period of three years.

11. Provision should be made to defray the reasonable cost of the constant help or attendance of another person in cases in which the injured person requires such services; alternatively, the periodical payment should be increased by either a prescribed percentage or a prescribed amount.

12. Where an employment injury entails unemployability or disfigurement and this is not taken fully into account in the evaluation of the loss sustained by the injured person, supplementary or special benefits should be provided.

13. Where the periodical payments made to the surviving spouse and children are less than the maximum amounts prescribed, a periodical payment should be made to the

following categories of persons if they were dependent on the deceased for support:

- (a) parents;
- (b) brothers and sisters;
- (c) grandchildren.

14. Where a maximum limit upon the total benefits payable to all the survivors is prescribed, such maximum should be not less than the rate of benefits payable in respect of

total loss of earning capacity likely to be permanent, or corresponding loss of faculty.

15. The rates of cash benefits currently payable pursuant to paragraphs 2 and 3 of Article 14 and to paragraph 1 of Article 18 of the Employment Injury Benefits Convention, 1964, should be periodically adjusted, taking account of changes in the general level of earnings or the cost of living.

## R131 – Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-first Session on 7 June 1967, and

Having decided upon the adoption of certain proposals with regard to the revision of the Old-Age Insurance (Industry, etc.) Convention, 1933, the Old-Age Insurance (Agriculture) Convention, 1933, the Invalidity Insurance (Industry, etc.) Convention, 1933, the Invalidity Insurance (Agriculture) Convention, 1933, the Survivors' Insurance (Industry, etc.) Convention, 1933, and the Survivors' Insurance (Agriculture) Convention, 1933, 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 Invalidity, Old-Age and Survivors' Benefits Convention, 1967,

adopts this twenty-ninth day of June of the year one thousand nine hundred and sixty-seven, the following Recommendation, which may be cited as the Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967:

### I. General Provisions

1. In this Recommendation:
  - (a) the term **legislation** includes any social security rules as well as laws and regulations;
  - (b) the term **prescribed** means determined by or in virtue of national legislation;
  - (c) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;
  - (d) the term **wife** means a wife who is dependent on her husband;

- (e) the term **widow** means a woman who was dependent on her husband at the time of his death;
- (f) the term **child** covers:
  - (i) a child under school-leaving age or under 15 years of age, whichever is the higher; and
  - (ii) a child under a prescribed age higher than that specified in subclause (i) of this clause and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions;
- (g) the term **qualifying period** means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed;
- (h) the term **contributory benefits** means benefits the grant of which depends on direct financial participation by the persons protected or their employer or on a qualifying period of occupational activity.

### II. Persons Protected

2. Members should extend the application of their legislation providing for invalidity and old-age benefits, by stages if necessary, and under appropriate conditions:

- (a) to persons whose employment is of a casual nature;
- (b) to all economically active persons.

3. Members should extend the application of their legislation providing for survivors' benefits, by stages if necessary, and under appropriate conditions, to the wives, children and, as may be prescribed, other dependants of:

- (a) persons whose employment is of a casual nature;
- (b) all economically active persons.

### III. Contingencies Covered

4. The definition of invalidity should take into account incapacity to engage in an activity involving substantial gain.
5. A reduced benefit should be provided in respect of partial invalidity, under prescribed conditions.
6. With a view to protecting persons who are over a prescribed age but have not attained pensionable age Members should provide benefits, under prescribed conditions, for:
  - (a) persons whose unfitness for work is established or presumed;
  - (b) persons who have been involuntarily unemployed for a prescribed period; or
  - (c) any other prescribed categories of persons for which such a measure is justified on social grounds.
7. The pensionable age should where appropriate be lowered, under prescribed conditions, in respect of any prescribed categories of persons for which such a measure is justified on social grounds.
8. A reduced old-age benefit should be payable under prescribed conditions to a person protected who, by reason only of his advanced age when the legislation giving effect to the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, comes into force, has not satisfied the qualifying conditions prescribed, unless a benefit in conformity with the provisions of paragraph 1, 3 or 4 of Article 18 of that Convention is secured to such person at an age higher than the normal pensionable age.
9. Where the widow's right to a survivors' benefit is conditional on the attainment of a prescribed age, a widow below that age should be given every assistance and all facilities, including training and placement facilities and the provision of benefit where appropriate, to enable her to obtain suitable employment.
10. A widow whose husband had fulfilled the prescribed qualifying conditions, but who does not herself fulfil the conditions for a survivors' benefit, should be entitled to an allowance for a specified period, or a lump-sum death benefit.
11. A contributory old-age benefit, or a contributory survivors' benefit payable to a widow, should not be suspended after a prescribed age solely because the person concerned is gainfully occupied.
12. An invalid and dependent widower should, under prescribed conditions, enjoy the same entitlements to survivors' benefit as a widow.
13. An invalidity benefit should be secured at least to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be five years of contribution, employment or residence.
14. The qualifying period for an invalidity benefit should be eliminated or reduced, under prescribed conditions, in the case of young workers who have not attained a prescribed age.
15. The qualifying period for an invalidity benefit should be eliminated or reduced, under prescribed conditions, where the invalidity is due to an accident.
16. An old-age benefit should be secured at least to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period which may be 20 years of contribution or employment or 15 years of residence.
17. Where an old-age benefit is conditional upon a minimum period of contribution or employment, a reduced old-age benefit should be secured at least to a person protected who has completed, prior to the contingency, in accordance with prescribed rules, a qualifying period of ten years of contribution or employment.
18. Where an old-age benefit is conditional upon a minimum period of contribution or employment, the amount of the old-age benefit should be increased under prescribed conditions:
  - (a) where the grant of the benefit is conditional upon retirement from a prescribed gainful activity, if a person who has reached the pensionable age and has fulfilled the qualifying conditions of contribution or employment prescribed for a benefit defers his retirement;
  - (b) where the grant of an old-age benefit is not conditional upon retirement from a prescribed gainful activity, if a person who has reached the pensionable age and has fulfilled the qualifying conditions prescribed for a benefit defers his claim to benefit.
19. A survivors' benefit should be secured at least on the qualifying conditions provided for in Paragraph 13 of this Recommendation for an invalidity benefit.
20. Where the grant of invalidity, old-age and survivors' benefits depends on a period of contribution or employment, at least periods of incapacity due to sickness, accident or maternity and periods of involuntary unemployment, in respect of which benefit was paid, should be assimilated, under prescribed conditions, to periods of contribution or employment in calculating the qualifying

period that has been fulfilled by the person concerned.

21. Where the grant of invalidity, old-age and survivors' benefits depends on a qualifying period of contribution or employment, periods of compulsory military service should be assimilated, under prescribed conditions, to periods of contribution or employment in calculating the qualifying period that has been fulfilled by the person concerned.

#### IV. Benefits

22. The percentages indicated in the Schedule appended to Part V of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, should be increased by at least ten points.

23. National legislation should fix minimum amounts of invalidity, old-age and survivors'

benefits, so as to ensure a minimum standard of living.

24. The amount of invalidity, old-age and survivors' benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living.

25. Increments in benefits or supplementary or special benefits should be provided, under prescribed conditions, for pensioners requiring the constant help or attendance of another person.

26. Benefits to which a person protected would otherwise be entitled should not be suspended solely because the person concerned is absent from the territory of the Member.

## R134 – Medical Care and Sickness Benefits Recommendation, 1969

### Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-third Session on 4 June 1969, and

Having decided upon the adoption of certain proposals with regard to the revision of the Sickness Insurance (Industry) Convention, 1927, and the Sickness Insurance (Agriculture) Convention, 1927, 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 Medical Care and Sickness Benefits Convention, 1969,

adopts this twenty-fifth day of June of the year one thousand nine hundred and sixty-nine, the following Recommendation, which may be cited as the Medical Care and Sickness Benefits Recommendation, 1969:

1. In this Recommendation:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;
- (c) the term **residence** means ordinary residence in the territory of the Member and the term **resident** means a person ordinarily resident in the territory of the Member;

(d) the term **dependent** refers to a state of dependency which is presumed to exist in prescribed cases;

(e) the term **wife** means a wife who is dependent on her husband;

(f) the term **child** covers:

(i) a child under school-leaving age or under 15 years of age, whichever is the higher; and

(ii) a child under a prescribed age higher than that specified in subclause (i) of this clause and who is an apprentice or student or has a chronic illness or infirmity disabling him for any gainful activity, under prescribed conditions;

(g) the term **qualifying period** means a period of contribution, or a period of employment, or a period of residence, or any combination thereof, as may be prescribed;

(h) the term **sickness** means any morbid condition, whatever its cause;

(i) the term **medical care** includes allied benefits.

2. Members should extend the application of their legislation providing for the medical care referred to in Article 8 of the Medical Care and Sickness Benefits Convention, 1969, by stages, if necessary, and under appropriate conditions:

(a) to persons whose employment is of a casual nature;

(b) to members of the employer's family living in his house, in respect of their work for him;

(c) to all economically active persons;

(d) to the wives and children of the persons specified in clauses (a) to (c) of this Paragraph; and

(e) to all residents.

3. The medical care referred to in Article 8 of the Medical Care and Sickness Benefits Convention, 1969, should include:

(a) the supply of medical aids, such as eyeglasses; and

(b) services for convalescents.

4. The right to the medical care referred to in Article 8 of the Medical Care and Sickness Benefits Convention, 1969, should not be made subject to a qualifying period.

5. Where a beneficiary ceases to belong to the categories of persons protected, the medical care referred to in Article 8 of the Medical Care and Sickness Benefits Convention, 1969, should be provided throughout the contingency for a case of sickness which started while he belonged to the said categories.

6. Under prescribed conditions, benefits provided for in Parts II and III of the Medical Care and Sickness Benefits Convention, 1969, should continue to be provided to a person protected who is temporarily absent from the territory of the Member.

7. A beneficiary or, where appropriate, his breadwinner should not be required to share in the cost of the medical care referred to in Article 8 of the Medical Care and Sickness Benefits Convention, 1969:

(a) if his means do not exceed prescribed amounts;

(b) in respect of diseases recognised as entailing prolonged care.

8. A person protected for sickness benefit should be granted a cash benefit in cases of

absence from work involving loss of earnings which is justified on the ground that:

(a) he is required to undergo curative or preventive medical care;

(b) he is isolated for the purpose of quarantine;

(c) he is placed under medical supervision for the purpose of rehabilitation; or

(d) he is on convalescent leave.

9. A reasonable opportunity to obtain necessary medical treatment during normal working hours should be afforded to a person protected who suffers from a sickness which does not fully incapacitate him from attending to his normal work.

10. Appropriate provision should be made to help a person protected who is economically active and who has to care for a sick dependant.

11. Members should extend the application of their legislation providing for the sickness benefit referred to in Article 18 of the Medical Care and Sickness Benefits Convention, 1969, by stages, if necessary, and under appropriate conditions:

(a) to persons whose employment is of a casual nature;

(b) to members of the employer's family living in his house, in respect of their work for him; and

(c) to all economically active persons.

12. The percentage specified in Article 22, paragraph 1, and Article 23, paragraph 1, of the Medical Care and Sickness Benefits Convention, 1969, should be increased by at least 6 2/3 points.

13. Cash benefit in respect of incapacity for work resulting from a sickness and involving suspension of earnings should be paid throughout the contingency.

## R167 – Maintenance of Social Security Rights Recommendation, 1983

### Preamble

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-ninth Session on 1 June 1983, and

Recalling the principles established by the Equality of Treatment (Social Security) Convention, 1962, which relate not only to equality of treatment but also to the maintenance of rights in course of acquisition

and of acquired rights, and by the Maintenance of Social Rights Convention, 1982, and

Considering it necessary to promote the conclusion of bilateral or multilateral social security instruments between Members of the International Labour Organisation, as well as the international co-ordination of these instruments, in particular for the application of the Equality of Treatment (Social Security) Convention, 1962, and of the Maintenance of Social Security Rights Convention, 1982 and Having decided upon the adoption of certain proposals with regard to the maintenance of

rights in social security, which is the fifth item on the agenda of the session, and

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

adopts this twentieth day of June of the year one thousand nine hundred eighty-three, the following Recommendation, which may be cited as the Maintenance of Social Security Rights Recommendation, 1983:

1. In this Recommendation:

- (a) the term **Member** means any State Member of the International Labour Organisation;
- (b) the term **legislation** includes any social security rules as well as laws and regulations;
- (c) the term **refugee** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation;
- (d) the term **stateless person** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;
- (e) the term **members of the family** means persons defined or recognised as such or as members of the household by the legislation under which benefits are awarded or provided, as appropriate, or persons determined by mutual agreement between the Members concerned; where persons are defined or recognised as members of the family or as members of the household under the relevant legislation only on the condition that they are living with the person concerned, this condition shall be deemed to be satisfied in respect of persons who obtain their main support from the person concerned;
- (f) the term **survivors** means persons defined or recognised as such by the legislation under which benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;
- (g) the term **residence** means ordinary residence.

2. Members bound by a bilateral or multilateral social security instrument should endeavour by mutual agreement to extend to the nationals of any other Member, as well as

to refugees and stateless persons resident in the territory of any Member, the benefit of the provisions of that instrument relating to:

- (a) the determination of the applicable legislation;
- (b) the maintenance of rights in course of acquisition;
- (c) the maintenance of acquired rights and provision of benefits abroad.

3. Members should conclude among themselves and with the States concerned appropriate administrative or financial arrangements to remove possible obstacles to the provision of invalidity, old-age and survivors' benefits, pensions in respect of employment injuries and death grants, to which a right is acquired under their legislation, to beneficiaries who are nationals of a Member or refugees or stateless persons resident abroad.

4. Where one of the Members bound by a bilateral or multilateral social security instrument has no legislation in force in respect of unemployment benefit or family benefit, the Members so bound should endeavour to conclude between themselves appropriate arrangements to compensate equitably the loss of the absence of rights resulting therefrom for persons who transfer their residence from the territory of a Member which has legislation in force in respect of the benefits concerned to the territory of a Member which has no such legislation, or for the members of the family of persons entitled to family benefit under the legislation of the first Member when these members of the family are resident in the territory of the second Member.

5. Where, in application of the Equality of Treatment (Social Security) Convention, 1962, the Maintenance of Social Security Rights Convention, 1982, or any bilateral or multilateral social security instrument, cash benefits have to be paid to beneficiaries residing in the territory of a State other than the one in whose territory the institution liable for the payment is located, this institution should, whenever possible, pay the beneficiary direct, particularly in the case of invalidity, old-age and survivors' benefits and also pensions in respect of employment injuries. The transfer of these benefits and pensions should be made with the minimum delay, so that beneficiaries may have them at their disposal as quickly as possible. In the case of indirect payment, the institution acting as intermediary in the country of residence of the beneficiary should do its utmost to see that the latter shall receive promptly the benefits due.

6. Members concerned should endeavour to conclude bilateral and multilateral social security instruments covering the nine branches of social security mentioned in paragraph 1 of Article 2 of the Maintenance of Rights in Social Security Convention, 1982; to develop the co-ordination of bilateral or multilateral social security instruments by which they are respectively bound; and to conclude an international agreement to this effect, with the assistance of the International Labour Office, where appropriate.

7. For the application of the provisions of Articles 6 to 8 of the Equality of Treatment (Social Security) Convention, 1962, and of paragraph 1 of Article 4 of the Maintenance of Social Security Rights Convention, 1982, Members bound by these Conventions should take account, as appropriate, of the model provisions and the model agreement annexed to this Recommendation, designed for the conclusion of bilateral or multilateral social security instruments and for their coordination.

8. Members concerned, even if they are not yet bound by at least one of the Conventions referred to in Paragraph 7 of this Recommendation, should endeavour to participate in the international system provided for by the Maintenance of Social Security Rights Convention, 1982, taking account, as appropriate, of the model provisions and the model agreement annexed to this Recommendation.

## ANNEX I

### Model Provisions for the Conclusion of Bilateral or Multilateral Social Security Instruments

#### I. DEFINITIONS

##### Article 1

For the purpose of these model provisions:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **competent State** means a Contracting Party under whose legislation the person concerned can claim benefit;
- (c) the term **competent authority** means the minister, ministers or other corresponding authority responsible for the social security schemes in all or any part of the territory of each Contracting Party;
- (d) the term **institution** means any body or authority directly responsible for applying all or part of the legislation of a Contracting Party;

- (e) the term **competent institution** means:
  - (i) in relation to a social insurance scheme, either the institution with which the person concerned is insured when he claims benefit, or an institution from which he is entitled to receive benefit or would be entitled to receive benefit if he were resident in the territory of the Contracting Party where that institution is situated, or the institution designated by the competent authority of the Contracting Party concerned;
  - (ii) in relation to a scheme other than a social insurance scheme, or in relation to a family benefits scheme, the institution designated by the competent authority of the Contracting Party concerned;
  - (iii) in relation to a scheme consisting of obligations imposed on employers either the employer or his insurer or, in default thereof, the body or authority designated by the competent authority of the Contracting Party concerned;
- (f) the term **provident fund** means a compulsory savings institution;
- (g) the term **members of the family** means persons defined or recognised as such or as members of the household by the legislation under which benefits are awarded or provided, as appropriate, or persons determined by mutual agreement between the Contracting Parties concerned; where persons are defined or recognised as members of the family or as members of the household under the relevant legislation only on the condition that they are living with the person concerned, this condition shall be deemed to be satisfied in respect of persons who obtain their main support from the person concerned;
- (h) the term **survivors** means persons defined or recognised as such by the legislation under which benefits are awarded; where persons are defined or recognised as survivors under the relevant legislation only on the condition that they were living with the deceased, this condition shall be deemed to be satisfied in respect of persons who obtained their main support from the deceased;
- (i) the term **residence** means ordinary residence;
- (j) the term **temporary residence** means a temporary stay;
- (k) the term **institution of the place of residence** means the institutional

empowered, under the Contracting Party's legislation applied by it, to provide the benefits in question at the place of residence or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;

- (l) the term ***institution of the place of temporary residence*** means the institution empowered, under the Contracting Party's legislation applied by it, to provide the benefits in question at the place of temporary residence of the person concerned or, where no such institution exists, the institution designated by the competent authority of the Contracting Party concerned;
- (m) the term ***periods of insurance*** means periods of contribution, employment, occupational activity or residence which are defined or recognised as periods of insurance by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of insurance;
- (n) the terms ***periods of employment and periods of occupational activity*** mean periods defined or recognised as such by the legislation under which they were completed and such other periods as are regarded by that legislation as equivalent to periods of employment or periods of occupational activity respectively;
- (o) the term ***periods of residence*** means periods of residence defined or recognised as such by the legislation under which they were completed;
- (p) the term ***benefits*** means all benefits in kind and in cash provided in respect of the contingency concerned, including death grants, and:
  - (i) as benefits in kind, benefits aimed at the prevention of any contingency covered by social security, physical rehabilitation and vocational rehabilitation;
  - (ii) as benefits in cash, all components thereof provided out of public funds, and all increases, revaluation allowances of supplementary allowances, and any benefits awarded for the purpose of maintaining or improving earning capacity, lump-sum benefits which may be paid in lieu of pensions and, where applicable, any payments made by way of refund of contributions;
- (q)
  - (i) the term ***family benefits*** means any benefits in kind or in cash, including

family allowances, granted to offset family maintenance costs, with the exception of increases in, or supplements to, pensions provided for the members of the family of the recipients of such pensions;

- (ii) the term ***family allowances*** means periodical cash benefits granted according to the number and age of children;
- (r) the term ***death grant*** means any lump sum payable in the event of death other than the lump-sum benefits mentioned in subparagraph (p)(ii) of this article;
- (s) the term ***non-contributory*** applies to benefits the award of which does not depend on direct financial participation by the persons protected or by their employer, or on a qualifying period of occupational activity, and to any scheme which exclusively awards such benefits.

## II. APPLICABLE LEGISLATION

### Article 2

1. Notwithstanding the general rule relating to the application of the legislation of the Contracting Party in the territory of which the employed persons are employed (Note: see paragraph 1 (a) of Article 5 of the Maintenance of Social Security Rights Convention, 1982) the legislation applicable to employed persons referred to in this paragraph is determined in accordance with the following provisions:

- (a)
  - (i) employed persons who are employed in the territory of a Contracting Party by an undertaking which is their regular employer and who are sent by that undertaking to work for it in the territory of another Contracting Party shall remain subject to the legislation of the first Party, provided that the expected duration of the work does not exceed the time-limit determined by mutual agreement between the Contracting Parties concerned and that they are not sent to replace other employed persons who have completed their period of secondment abroad;
  - (ii) if the work to be carried out continues because of unforeseeable circumstances for a period longer than originally foreseen and exceeding the determined time-limit, the legislation of the first Party shall remain applicable until the work is completed, subject to the consent of the competent authority of the second Party or of the body designated by it;

- (b)
- (i) employed persons who are employed in international transport in the territory of two or more Contracting Parties as travelling personnel in the service of an undertaking which has its registered office in the territory of a Contracting Party and which, on behalf of others or on its own account, transports passengers or goods by rail, road, air or inland waterway, shall be subject to the legislation of the latter Party;
  - (ii) however, if they are employed by a branch or permanent agency which the said undertaking has in the territory of a Contracting Party other than the Party in whose territory it has its registered office, they shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent agency is situated;
  - (iii) if they are employed mainly in the territory of the Contracting Party where they are resident, they shall be subject to the legislation of that Party, even if the undertaking which employs them has neither its registered office nor a branch or permanent agency in that territory;
- (c)
- (i) employed persons other than those in international transport who normally follow their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they reside if their occupation is carried on partly in that territory or if they are employed by several undertakings or by several employers having their registered offices or their places of residence in the territory of different Contracting Parties;
  - (ii) in other cases they shall be subject to the legislation of the Contracting Party in whose territory the undertaking which employs them has its registered office or their employer has his place of residence;
  - (d) employed persons who are employed in the territory of a Contracting Party by an undertaking which has its registered office in the territory of another Contracting Party and whose premises lie astride the common frontier of the Contracting Parties concerned shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its registered office.
2. Notwithstanding the general rule relating to the application of the legislation of the Contracting Party in the territory of which self-employed persons engage in an occupation, (Note: see paragraph 1 (b) of Article 5 of the Maintenance of Social Security Rights Convention, 1982) the legislation applicable to the self-employed persons referred to in this paragraph is determined in accordance with the following provisions --
- (a) self-employed persons who reside in the territory of one Contracting Party and engage in their occupation in the territory of another Contracting Party shall be subject to the legislation of the first Party :
    - (i) if the second Party has no legislation applicable to them, or
    - (ii) if, under the legislation of each of the Parties concerned, self-employed persons are subject to that legislation solely by reason of the fact that they are resident in the territory of those Parties;
  - (b) self-employed persons who normally engage in their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they are resident, if they work partly in that territory or if, under that legislation, they are subject to it solely by reason of the fact that they are resident in the territory of that Party;
  - (c) where the self-employed persons referred to in the preceding subparagraph do not work partly in the territory of the Contracting Party where they are resident, or where, under the legislation of that Party, they are not subject to that legislation solely by reason of their residence, or where that Party has no legislation applicable to them, they shall be subject to the legislation mutually agreed upon by the Contracting Parties concerned or by their competent authorities.
3. Where by virtue of the preceding paragraphs of this article, a worker is subject to the legislation of a Contracting Party in whose territory he is neither employed nor engaged in an occupation nor resident, that legislation shall be applicable to him as if he were employed or engaged in an occupation or resident in the territory of that Party, as the case may be.
4. The competent authorities of the Contracting Parties may, by mutual agreement, make other provisions than those

of the preceding paragraphs of this Article, in the interest of the persons concerned.

### **III. MAINTENANCE OF RIGHTS IN COURSE OF ACQUISITION**

#### **A. ADDING TOGETHER PERIODS**

##### **1. Medical Care, Sickness Benefit, Maternity Benefit and Family Benefit**

###### **Article 3**

Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together and to the extent necessary, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

##### **2. Unemployment Benefit**

###### **Article 4**

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together and to the extent necessary, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

2. However, the institution of a Contracting Party whose legislation requires the completion of periods of insurance for the establishment of the right to benefit may make the adding together of periods of employment or occupational activity completed under the corresponding legislation of another Contracting Party subject to the condition that these periods would have been considered as periods of insurance if they had been completed under the legislation of the first Party.

3. The provisions of the preceding paragraphs of this article shall apply, *mutatis mutandis*, where the legislation of a Contracting Party provides that the length of the period during which benefit may be awarded depends on the length of the periods completed.

### **3. Invalidity, Old-age and Survivors' Benefit**

#### **Article 5**

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to benefit conditional upon the completion of periods of insurance employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods of insurance, employment, occupational activity and residence completed under the corresponding legislation of any other Contracting Party, in so far as they are not overlapping, as if they were periods completed under the legislation of the first Party.

2. Where the legislation of a Contracting Party makes the provision of benefit conditional on the person concerned or, in the case of survivors' benefit, the deceased, having been subject to that legislation at the time at which the contingency arose, that condition shall be deemed to be fulfilled if the person concerned or the deceased, as the case may be, was subject at that time to the legislation of another Contracting Party or, failing that, if the person concerned or the survivor can claim corresponding benefits under the legislation of another Contracting Party.

3. Where the legislation of a Contracting Party provides that the period of payment of a pension may be taken into consideration for the acquisition, maintenance or recovery of the right to benefit, the competent institution of that Party shall for this purpose take account of any period during which a pension was paid under the legislation of any other Contracting Party.

#### **4. Common Provisions**

##### **Article 6**

Where the legislation of a Contracting Party makes the provision of certain benefits conditional upon the completion of periods in an occupation covered by a special scheme or in a specified occupation or employment, only periods completed under a corresponding scheme or, in the absence of such a scheme, in the same occupation or in the same employment, as the case maybe, under the legislation of other Contracting Parties, shall be taken into account for the award of such benefits. If, notwithstanding periods completed in this way, the person concerned does not satisfy the conditions for entitlement to the said benefits, the periods concerned shall be taken into account for the award of benefits under the general scheme or, in the absence of such a scheme, the scheme applicable to wage

earners or to salaried employees, as appropriate.

**B. DETERMINATION OF INVALIDITY, OLD-AGE AND SURVIVORS' BENEFIT**

**Article 7**

The determination of invalidity, old-age and survivors' benefit shall be carried out in conformity with either the method of apportionment or the method of integration, according to the choice made by mutual agreement between the Contracting Parties concerned.

**ALTERNATIVE I—METHOD OF APPORTIONMENT**

**1. Common Provisions**

**Article 8**

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, the institution of each of these Parties shall determine, in accordance with the legislation which it applies, whether such person, or his survivors, satisfies the conditions for right to benefit having regard, where appropriate, to the provisions of Article 5.

2. Where the person concerned satisfies these conditions, the competent institution of any Contracting Party whose legislation provides that the amount of benefits or certain parts thereof shall be in proportion to the periods completed may calculate those benefits or parts thereof directly, solely on the basis of the periods completed under the legislation which it applies, notwithstanding the provisions of the following paragraphs of this Article.

3. If the person concerned satisfies the conditions referred to in paragraph 1 of this Article the competent institution of any of the other Contracting Parties shall calculate the theoretical amount of the benefits he could claim if all the periods completed under the legislation of all the Contracting Parties concerned and taken into account for establishing entitlement, in accordance with the provisions of Articles 5, had been completed exclusively under the legislation which that the institution applies.

4. However,

- (a) in the case of benefits the amount of which does not depend on the length of periods completed, that amount shall be taken to be the theoretical amount referred to in the preceding paragraph;
- (b) in the case of non-contributory benefits the amount of which does not depend on the length of periods completed, the

theoretical amount referred to in the preceding paragraph may be calculated on the basis of and up to the amount of the full benefit:

- (i) in the case of invalidity or death, in proportion to the ratio of the total periods completed, before the contingency arose, by the person concerned or the deceased under the legislation of all Contracting Parties concerned and taken into account in accordance with the provisions of Article 5, to two-thirds the number of years which elapsed between the date on which the persons concerned or the deceased reached the age of 15-or a higher age fixed by mutual agreement between the Contracting Parties concerned-and the date on which the incapacity for work followed by invalidity or the death, as the case may be, occurred, disregarding any years subsequent to pensionable age;
- (ii) in the case of old age, in proportion to the ratio of the total periods completed by the person concerned under the legislation of all the Contracting Parties concerned and taken into account in accordance with the provisions of article 5, to 30 years, disregarding any years subsequent to pensionable age.

5. The institution referred to in paragraph 3 of this Article shall then calculate the actual amount of the benefit payable by it to the person concerned on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 3 or of paragraph 4 of this Article, as appropriate, and in proportion to the ratio of the periods completed before the contingency arose under the legislation which it applies, to the total of the periods completed before the contingency arose under the legislation of all the Contracting Parties concerned.

6. If the total of the periods completed under the legislation of all the Contracting Parties concerned before the Contingency arose exceeds the maximum period required by the legislation of one of these Parties for the receipt of full benefits, the institution of that Party shall, when applying the provisions of paragraphs 3 and 5 of this Article, take into account this maximum, period instead of the total of the periods completed, without, however, being obliged to award higher benefits than the full benefits provided for by the legislation which it applies.

**Article 9**

1. Notwithstanding the provisions of Article 8, where the total duration of the periods completed under the legislation of a Contracting Party is less than one year and where, taking into account only those periods, no right to benefit exists under that legislation, the institution of the Party concerned shall not be bound to award benefit in respect of the said periods.

2. The periods referred to in the preceding paragraph shall be taken into account by the institution of each of the other Contracting Parties concerned for the purpose of applying the provisions of Article 8, except those of paragraph 5 thereof.

3. However, where the application of the provisions of paragraph 1 of this Article would have the effect of relieving all the institutions concerned of the obligation to award benefit, benefit shall be awarded

(Alternative A) exclusively under the legislation of the last Contracting Party whose conditions are fulfilled by the person concerned, regard being had to the provisions of Article 5, as if all the periods referred to in paragraph 1 of this Article had been completed under the legislation of that Party.

(Alternative B) in accordance with the provisions of Article 8.

**Article 10**

1. If the person concerned does not, at a given date, satisfy the conditions required by the legislation of all the Contracting Parties concerned, regard being had to the provisions of Article 5, but satisfies the conditions of the legislation of only one or more of them, the following provisions shall apply:

(a) the amount of the benefit payable shall be calculated in accordance with the provisions of paragraph 2 or of paragraphs 3 to 6 of Article 8, as appropriate, by each of the competent institutions applying legislation the conditions of which are fulfilled;

(b) however:

(i) if the person concerned satisfies the conditions of the legislation of at least two Contracting Parties, without any need to include periods completed under any legislation the conditions of which are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of paragraphs 3 to 6 of Article 8;

(ii) if the person concerned satisfies the condition of the legislation of one Contracting Party only, without any

need to invoke the provisions of Article 5, the amount of the benefit payable shall be calculated exclusively in accordance with the provisions of the legislation the conditions of which are fulfilled, taking account of periods completed under that legislation only.

2. Benefits awarded under the legislation of one or more Contracting Parties concerned in the case covered by the preceding paragraph shall be recalculated automatically, in accordance with the provisions of paragraph 2 or of paragraphs 3 to 6 of Article 8, when the conditions prescribed by the other legislation or legislations concerned are satisfied, regard being had, where appropriate, to the provisions of Article 5.

3. Benefits awarded under the legislation of two or more Contracting Parties shall be recalculated, in accordance with the provisions of paragraph 1 of this Article, at the request of the beneficiary, when the conditions prescribed by the legislation of one or more of these Contracting Parties cease to be fulfilled.

**Article 11**

1. Where the amount of the benefits a person would be entitled to claim under the legislation of a Contracting Party, without regard to the provisions of Articles 5 and 8 to 10, is greater than the total benefits payable in accordance with those provisions, the competent institution of that Party shall pay a supplement equal to the difference between the two amounts. That institution shall bear the whole cost of the supplement.

(Alternative A) 2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive only whichever is the largest. The cost of this supplement shall be apportioned among the competent institutions of the Contracting Parties concerned according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all the said institutions would have to pay.

(Alternative B) 2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more Contracting Parties, he shall receive these supplements only within the limit of the highest theoretical amount calculated by these institutions in accordance with the provisions of paragraphs 3 or 4 of Article 8. If the total amount of the benefit and

supplements exceeds the highest theoretical amount, each institution of the Contracting Parties concerned may reduce the amount of the supplement which it would have to pay, by a fraction of the excess determined according to the ratio between the amount of the latter supplement and the amount of the combined supplement which all the said institutions would have to pay.

3. The supplements referred to in the preceding paragraphs of this Article shall be regarded as a component of the benefit provided by the institution liable for payment. Their amount shall be determined once and for all, except where the provisions of paragraph 2 or paragraph 3 of Article 10 are applicable.

**2. Special Provisions concerning Invalidity and Survivors' Benefits**

**Article 12**

1. In the event of an aggravation of any invalidity for which a person is receiving benefit under the legislation of one Contracting Party only, the following provisions shall apply :

- (a) if the person concerned has not been subject to the legislation of any other Contracting Party since he began to receive benefit, the competent institution of the first Party shall be bound to take the aggravation into account, when awarding benefit, in accordance with the provisions of the legislation which it applies;
- (b) if the person concerned has been subject to the legislation of one or more other Contracting Parties since he began to receive benefit, the aggravation shall be taken into account when awarding benefit in accordance with the provisions of Article 5 and 8 to 11;
- (c) in the case referred to in the preceding subparagraph, the date on which the aggravation was demonstrated shall be regarded as the date on which the contingency arose;
- (d) if in the case referred to in subparagraph (b) of this paragraph the person concerned is not entitled to benefit from the institution of another Contracting Party, the competent institution of the first Party shall be bound to take the aggravation into account, when awarding benefit, in accordance with the provisions of the legislation which it applies.

2. In the event of aggravation of any invalidity for which the person is receiving benefit under the legislation of two or more Contracting Parties, the aggravation shall be taken into account, when awarding benefit, in accordance with the provisions of Articles 5 and 8 to 11. The provisions of subparagraph

(c) of the preceding paragraph shall apply *mutatis mutandis*.

**Article 13**

1. Invalidity or survivors' benefit shall, where appropriate, be converted into old-age benefit, on conditions prescribed by the legislation under which they have been awarded and in accordance with the provisions of Article 5 and 8 to 11.

2. Where, in the case referred to in Article 10, a recipient of invalidity or survivors' benefit payable under the legislation of one or more Contracting Parties becomes entitled to old-age benefit, any institution liable for the payment of invalidity or survivors' benefit shall continue to pay the recipient to which he is entitled under the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

**ALTERNATIVE II-METHOD OF INTEGRATION**

**Formula A – Integration Linked with Residence**

**Article 14**

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, he or his survivors shall be entitled only to the benefits determined in accordance with the legislation of the Contracting Party in the territory of which they reside, provided that they satisfy the conditions prescribed by that legislation or by the Contracting Parties concerned, having regard, where appropriate, to the provisions of Article 5.

2. The cost of the benefits determined in accordance with the provisions of the preceding paragraph shall be:

- (a) borne entirely by the institution of the Contracting Party in the territory of which the person concerned resides; however, the application of this provision may be made conditional upon the person concerned having been resident in that territory at the date of the submission of his benefit claim or, in respect of survivors' benefit, upon the deceased having been resident in that territory at the date of his death for a minimum period fixed by mutual agreement between the Contracting Parties concerned; or
- (b) apportioned among the institutions of all the Contracting Parties concerned according to the ratio between the duration of the periods completed under the legislation which each of those institutions applies, before the contingency arose, and

the total duration of the periods completed under the legislation of all the Contracting Parties concerned before the contingency arose; or

- (c) borne by the institution of the Contracting Party in the territory of which the person concerned resides, but compensated by the institutions of the other Contracting Parties concerned according to a lump-sum arrangement agreed upon between all these Parties on the basis of the participation of the person concerned in the scheme of each of the Contracting Parties which is not liable to pay benefit.
3. If the person concerned does not satisfy the conditions of the legislation of the Contracting Party referred to in paragraph 1 of this Article or if that legislation does not provide for the award of invalidity, old-age or survivors' benefit, he shall receive the most favourable benefit to which he is entitled under the legislation of any other Contracting Party, regard being had, where appropriate, to the provisions of Article 5.

**Formula B – Integration Linked with the Occurrence of Invalidity or Death**

(Note: This formula may be limited to cases where the person considered has completed periods exclusively under legislation under which the amount of benefits is independent of the duration of periods completed.)

**Article 15**

1. Where a person has been subject successively or alternately to the legislation of two or more Contracting Parties, he or his survivors shall be entitled to benefit in accordance with the provisions of the following paragraphs of this Article.
2. The institution of the Contracting Party whose legislation was applicable when the incapacity for work followed by invalidity or death occurred shall determine, in accordance with the provisions of that legislation, whether the person concerned satisfies the conditions for right to benefit, regard being had, where appropriate, to the provisions of Article 5.
3. The person concerned who satisfies these conditions shall obtain the benefit from the said institution only, in accordance with the provisions of the legislation which it applies.
4. If the person concerned does not satisfy the conditions of the legislation of the Contracting Party referred to in paragraph 2 of this Article, or if that legislation does not provide for invalidity or survivors' benefit, he shall receive the most favourable benefit to which he is entitled under the legislation of any other Contracting Party, having regard, where applicable, to the provisions of Article 5.

**Article 16**

The provisions of Article 12, paragraph 1, shall apply *mutatis mutandis*.

**C. DETERMINATION OF BENEFITS IN RESPECT OF OCCUPATIONAL DISEASES**

**Article 17**

1. If a worker contracts an occupational disease after having been engaged in an occupation likely to cause that disease under the legislation of two or more Contracting Parties, the benefit to which he or his survivors may be entitled shall be awarded exclusively under the legislation of the last of the said Parties the conditions of which they fulfil, regard being had, where applicable, to the provisions of paragraphs 2 to 4 of this Article.
2. Where the legislation of a Contracting Party makes the right to benefit for occupational diseases conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled if this disease was first diagnosed in the territory of another Contracting Party.
3. Where the legislation of a Contracting Party explicitly or implicitly makes the right to benefit for occupational diseases conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to cause such a disease, the competent institution of that Party, when ascertaining the time at which the occupation of the same kind engaged in under the legislation of any other Contracting Party, as if it had been engaged in under the legislation of the first Party.
4. Where the legislation of a contracting Party explicitly or implicitly makes entitlement to benefit for occupational diseases conditional upon an occupation liable to cause the disease in question having been pursued for a specific period, the competent institution of that Party shall, to the extent necessary, take account, for the purpose of adding periods together, of periods during which such an occupation was followed in the territory of any other Contracting Party.
5. In those cases where the provisions of paragraph 3 or paragraph 4 of this Article are applied,  
(Alternative I) the cost of benefits  
(Alternative II) the cost of pensions  
in respect of occupational diseases may be apportioned among the Contracting Parties concerned,  
(Alternative A) in proportion to the ratio between the duration of exposure to the risk under the legislation of each of those Parties and the total

duration of exposure to the risk under the legislation of the said Parties.

(Alternative B) in proportion to the ratio between the duration of the periods completed under the legislation of each of those Parties and the total duration of the periods completed under the legislation of the said Parties.

(Alternative C) equally between those Parties under whose legislation the duration of exposure to risk has reached a percentage, fixed by mutual agreement between the Parties concerned, of the total duration of exposure to the risk under the legislation of the said Parties.

**Article 18**

Where a worker having contracted an occupational disease has received or is receiving compensation from the institution of a Contracting Party, and in the event of an aggravation of his condition claims benefits from the institution of another Contracting Party, the following provisions shall apply:

- (a) where the worker has not engaged, under the legislation of the second Party, in an occupation liable to cause or aggravate the disease in question, the competent institution of the first Party shall bear the cost of the benefit, taking the aggravation into account, in accordance with the provisions of the legislation which that institution applies;
- (b) where the worker has engaged in such an occupation under the legislation of the second Party, the competent institution of the first Party shall bear the cost of the benefit, leaving the aggravation out of account, in accordance with the provisions of the legislation which it applies; the competent institution of the second Party shall award to the worker a supplementary benefit the amount of which shall be equal to the difference between the amount of the benefit due after the aggravation and the amount of the benefit that would, in accordance with the provisions of the legislation which that institution applies, have been due before the aggravation if the disease in question had been contracted under the legislation of that Party.

**IV. MAINTENANCE OF ACQUIRED RIGHTS AND PROVISION OF BENEFITS ABROAD**

**1. Medical Care, Sickness Benefit, Maternity Benefit and Benefits Other than Pensions in respect of Occupational Injuries and Diseases**

**Article 19**

1. Persons who reside in the territory of a Contracting Party other than the competent State and who satisfy the conditions for right to benefit prescribed by the legislation of the latter State, regard being had, where appropriate, to the provisions of Article 3, shall receive in the territory of the Contracting Party in which they reside--

- (a) benefits in kind, provided at the expense of the competent institution by the institution of the place of residence in accordance with the provisions of the legislation which the latter institution applies, as if these persons were affiliated to it;
- (b) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, cash benefits may also be paid through the latter institution, on behalf of the competent institution.

2. The provisions of the preceding paragraph shall apply, mutatis mutandis, in respect of medical care, sickness and maternity benefits, to members of the family who are resident in the territory of a Contracting Party other than the competent State.

3. Benefits may also be provided to frontier workers and to members of their family by the competent institution in the territory of the competent State, in accordance with the provisions of the legislation of that State, as if they were resident in its territory.

**Article 20**

(ALTERNATIVE I)

1. Persons who satisfy the conditions for right to benefit under the legislation of the competent State, regard being had where appropriate, to the provisions of Article 3, and:

- (a) whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State; or
- (b) who, having become entitled to benefits payable by the competent institution, are authorised by that institution to return to the territory of a Contracting Party where they reside, other than the competent State, or to transfer their residence to the territory of a Contracting Party other than the competent State; or

- (c) who are authorised by the competent institution to go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition, shall receive:
- (i) benefits in kind, provided at the expense of the competent institution by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by the latter institution, as if these persons were affiliated to it, for a period not longer than that which may be prescribed by the legislation of the competent State;
  - (ii) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution on behalf of the competent institution.

2.

- (a) The authorisation referred to in subparagraph (b) of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the person concerned.
- (b) The authorisation referred to in subparagraph (c) of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the person concerned resides.
3. The provisions of the preceding paragraphs of this Article shall apply, *mutatis mutandis*, to members of the family in respect of medical care, sickness and maternity benefits.

(ALTERNATIVE II)

1. Persons who satisfy the conditions for right to benefit under the legislation of the competent State, regard being had, where appropriate, to the provisions of Article 3, and
- (a) whose condition necessitates the immediate provision of benefits during temporary residence in the territory of a Contracting Party other than the competent State; or
  - (b) who, having become entitled to benefits payable by the competent institution, return to the territory of a Contracting Party other than the competent State; or

- (c) who go to the territory of a Contracting Party other than the competent State in order to receive the treatment required by their condition, shall receive--
- (i) benefits in kind, provided by the institution of the place of residence or temporary residence in accordance with the provisions of the legislation applied by that institution, as if these persons were affiliated to it;
  - (ii) cash benefits, paid by the competent institution in accordance with the provisions of the legislation which it applies, as if these persons were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution, on behalf of the competent institution.

2. The provisions of the preceding paragraph shall apply, *mutatis mutandis*, to members of the family in respect of medical care, sickness and maternity benefits.

**2. Unemployment Benefit**

**Article 21**

1. Unemployed workers who satisfy the conditions for right to benefit prescribed by the legislation of one Contracting Party in respect of the completion of periods of insurance, employment, occupational activity or residence, regard being had, where appropriate, to the provisions of Article 4, and who transfer their residence to the territory of another Contracting Party, shall be deemed to have also satisfied the conditions for right to benefit prescribed by the legislation of the second Party, provided that they place themselves at the disposal of the employment services in the territory of that Party and file a claim with the institution of their new place of residence within 30 days of their transfer of residence, or such longer period as may be fixed by mutual agreement between the Contracting Parties. The benefit shall be paid by the institution of the place of residence, in accordance with the provisions of the legislation which that institution applies, the cost being borne by the competent institution of the first Party,

(Alternative I) for a period not exceeding any period which may be prescribed by the legislation of that Party.

(Alternative II) for a period not exceeding the shortest of the periods fixed by the legislation of each of the two Contracting Parties concerned.

(Alternative III) for a period not exceeding that prescribed by mutual agreement between the Contracting Parties.

2. Without prejudice to the provisions of the preceding paragraph, an unemployed person who, during his last employment, was resident in the territory of a Contracting Party other than the competent State shall receive benefit in accordance with the following provisions:

- (a)
- (i) a frontier worker who is partially or incidentally unemployed in the undertaking which employs him shall receive benefit in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the competent institution;
  - (ii) a frontier worker who is wholly unemployed shall receive benefit in accordance with the provisions of the Contracting Party in whose territory he resides, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the institution of the place of residence at its own cost;
- (b)
- (i) a worker, other than a frontier worker, who becomes partially, incidentally or wholly unemployed and remains available to his employer or to the employment services in the territory of the competent State, shall receive benefit in accordance with the provisions of the legislation of the competent State, as if he were resident in the territory of that State, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the competent institution;
  - (ii) a worker, other than a frontier worker, who becomes wholly unemployed makes himself available to the employment services in the territory of the Contracting Party where he resides, or returns to that territory, shall receive benefit in accordance with the provisions of the legislation of that Party, as if he had been subject to that legislation during his last employment, regard being had, where appropriate, to the provisions of Article 4; such benefit shall be paid by the

institution of the place of residence at its own cost;

- (iii) however, if the worker referred to in subparagraph (b) (ii) of this paragraph has become entitled to benefit from the competent institution of the Contracting Party to whose legislation he was last subject, he shall receive benefit in accordance with the provisions of the preceding paragraph, as if he had transferred his residence to the territory of the Contracting Party referred to in subparagraph (b) (ii) of this paragraph, for a period not exceeding the period laid down in the preceding paragraph.

3. As long as an unemployed person is entitled to benefit by virtue of subparagraph (a) (i) or subparagraph (b) (i) of the preceding paragraph, he shall not be entitled to benefit under the legislation of the Contracting Party in the territory of which he resides.

### 3. Family Benefit

#### ALTERNATIVE I – FAMILY ALLOWANCES

##### **Article 22**

1. Persons who are subject to the legislation of a Contracting Party, regard being had, where appropriate, to the provisions of Article 3, shall receive, in respect of the members of their family who are resident in the territory of another Contracting Party, the family allowances provided under the legislation of the first Party, as if these members of the family were resident in the territory of that Party.

2. The family allowances shall be paid in accordance with the provisions of the legislation of the Contracting Party to which the beneficiary is subject, even if the person or body corporate to whom these allowances are payable is resident or is located in the territory of another Contracting Party. In that case, by agreement between the competent institution and the institution of the place of residence of the members of the family, the family allowances may also be paid through the latter institution, on behalf of the competent institution.

#### ALTERNATIVE II – FAMILY BENEFIT

##### **Article 23**

##### (ALTERNATIVE A)

1. Persons who are subject to the legislation of a Contracting Party shall receive, regard being had, where appropriate, to the provisions of Article 3, in respect of the members of their family who reside in the territory of another Contracting Party, the

family benefit provided under the legislation of the latter party, as if the said persons were subject to its legislation.

2. The family benefit shall be paid to the members of the family by the institution of their place of residence, in accordance with the provisions of the legislation which that institution applies, at the expense of the competent institution, in an amount not exceeding the amount of the benefit due by the latter institution.

(ALTERNATIVE B)

Where the members of the family of a person who works or resides in the territory of a Contracting Party reside in the territory of another Contracting Party, family benefits shall be paid to them by and at the expense of the institution of their place of residence.

**4. Non-contributory Invalidity, Old-age and Survivors' Benefit**

**Article 24**

(Alternative I) Where the provisions of Article 8 are not applicable, and where the beneficiary of non-contributory invalidity, old-age or survivors' benefit, the amount of which does not depend on the length of the periods of residence completed, is resident in the territory of a Contracting Party other than the one under whose legislation he is entitled to benefit, the benefit may be calculated in accordance with the following provisions:

- (a) in the case of invalidity or death, in proportion to the ratio of the number of years of residence completed by the person concerned or the deceased under the said legislation between the date on which he reached the age of 15 or a higher age fixed by mutual agreement between the Contracting Parties concerned and the date of incapacity for work followed by invalidity or of death, to two-thirds of the number of years separating those two dates, disregarding any years subsequent to pensionable age;
- (b) in the case of old-age, in proportion to the ratio of the number of years of residence completed by the person concerned under the said legislation between the date on which he reached the age of 15 or a higher age fixed by mutual agreement between the Contracting Parties concerned and the date on which he reached the pensionable age, to 30 years.

(Alternative II) Where the provisions of Article 8 are not applicable, and where the legislation of a Contracting Party provides for both contributory and non-contributory invalidity, old-age or survivors' benefits, the

non-contributory invalidity, old-age or survivors' benefits whose amount does not depend on the length of the periods of residence are paid to the beneficiary who is resident in the territory of another Contracting Party in the same proportion that the contributory benefits to which that beneficiary is entitled bear to the total amount of the contributory benefits to which he would be entitled if he had completed the total duration of the periods required for entitlement.

**V. REGULATION OF UNDUE PLURALITY**

**Article 25**

Provisions in the legislation of a Contracting Party for the reduction, suspension or suppression of benefits where there is undue plurality with other benefits or other income, or because the person otherwise entitled is in employment or in an occupational activity, shall apply also to a beneficiary even in respect of benefits acquired under the legislation of another Contracting Party or of income obtained or employment or occupational activity undertaken in the territory of another Contracting Party. However, in applying this rule no account shall be taken of benefits of the same nature awarded in respect of invalidity, old-age, survivors or occupational disease by the institutions of two or more contracting Parties in accordance with the provisions of Article 8 or Article 18, subparagraph (b).

**Article 26**

Where a person in receipt of benefit under the legislation of one Contracting Party is also entitled to benefit under the legislation of one or more of the other Contracting Parties, the following rules shall apply :

- (a) where the application of the provisions of the legislation of two or more Contracting Parties would entail the concomitant reduction, suspension or suppression of such benefits, none of them may be reduced, suspended or suppressed to an extent greater than the amount which would be obtained by dividing the sum affected by the reduction, suspension or suppression in accordance with the legislation under which benefit is due by the number of benefits subject to reduction, suspension or suppression to which the beneficiary is entitled;
- (b) notwithstanding the foregoing, where the benefits concerned are invalidity, old-age or survivors' benefits paid in conformity with the provisions of Article 8 by the institution of a Contracting Party, that institution shall take account of the

benefits, income or remuneration entailing the reduction, suspension or suppression of the benefits due from it solely for the purposes of the reduction, suspension or suppression of the benefits due from it solely for the purposes of the reduction, suspension or suppression of the amount referred to in paragraph 2 or paragraph 5 of Article 8, but not for the calculation of the theoretical amount referred to in paragraphs 3 and 4 of the said Article 8; however, account shall be taken of such benefits, income or remuneration only to the extent of that fraction of their amount corresponding to the ratio of the periods completed, as prescribed in Article 8, paragraph 5.

**Article 27**

Where a person has a claim to medical care or sickness benefit under the legislation of two or more Contracting Parties, such benefit may be provided solely under the legislation of the Party in the territory of which he resides or, if he does not reside in the territory of one of those Parties, solely under the legislation of the Party to which this person or the person through whom entitlement to the said benefits arises was last subject.

**Article 28**

Where a person has a claim to maternity benefit under the legislation of two or more Contracting Parties, such benefit may be provided solely under the legislation of the Party in the territory of which the birth took place or, if the birth did not take place in the territory of one of those Parties, solely under the legislation of the Party to which this person or the person through whom entitlement to the said benefits arises was last subject.

**Article 29**

1. Where death occurs in the territory of a Contracting Party, the right to a death grant acquired under the legislation of that Party may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.
2. Where death occurs in the territory of a Contracting Party and the right to a death grant has been acquired solely under the legislation of two or more other Contracting Parties, the right acquired under the legislation of the Contracting Party to which the deceased was last subject may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.
3. Where death occurs outside the territory of the Contracting Parties and the right to death grant has been acquired under the legislation

of two or more Contracting Parties, the right acquired under the legislation of the Contracting Party to which the deceased was last subject may be alone recognised, to the exclusion of any right acquired under the legislation of any other Contracting Party.

**Article 30**

(Alternative I) Where, over the same period, family allowances are payable for the same members of the family under the provisions of Article 22 and under the legislation of the Contracting Party in the territory of which those members of the family reside, the right to family allowances payable under the legislation of the latter shall be suspended. However, in the case where a member of the family is engaged in an occupation in the territory of the said Party, that right shall be maintained, whereas the right to family allowances payable under the provisions of Article 22 shall be suspended.

(Alternative II) Where, over the same period, family allowances are payable for the same members of the family under the provisions of Article 22 and under the legislation of the Contracting Party in the territory of which those members of the family reside, the right to family allowances payable under the provisions of Article 22 shall be suspended.

**VI. MISCELLANEOUS PROVISIONS**

**Article 31**

Medical examinations prescribed by the legislation of one Contracting Party may be carried out, at the request of the institution which applies this legislation, in the territory of another Contracting Party, by the institution of the place of residence or temporary residence. In such event, they shall be deemed to have been carried out in the territory of the first Party.

**Article 32**

1. For the calculation of the amount of contributions due to the institution of a Contracting Party, account shall be taken, where appropriate, of any income received in the territory of any other Contracting Party.
2. The recovery of contributions due to the institution of one Contracting Party may be effected in the territory of another Contracting Party in accordance with the administrative procedures and subject to the guarantees and privileges applicable to the recovery of contributions due to a corresponding institution of the latter Party.

**Article 33**

Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees

provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that Party shall be extended to similar certificates and documents required to be produced for the purposes of the legislation of another Contracting Party or of these model provisions.

**Article 34**

1. The competent authorities of the Contracting Parties may designate liaison bodies empowered to communicate directly with one another and, provided they are authorised to do so by the competent authorities of that Party, with the institutions of any Contracting Party.

2. Any institution of a Contracting Party, and likewise any person residing or temporarily residing in the territory of a Contracting Party, may approach the institution of another Contracting Party either directly or through the liaison bodies.

**Article 35**

1. Any dispute which arises between two or more Contracting Parties concerning the interpretation or application of these model provisions shall be settled by means of direct negotiation between the competent authorities of the Contracting Parties concerned.

2. If the dispute cannot be so settled within a period of six months from the beginning of negotiations, it shall be submitted to a commission of arbitration; the composition and the procedure of this commission shall be determined by mutual agreement among the Contracting Parties concerned.

3. The decisions of the commission of arbitration shall be binding and final.

**VII. PROVISIONS CONCERNING  
THE MAINTENANCE OF RIGHTS  
IN THE RELATIONS BETWEEN OR  
WITH PROVIDENT FUNDS**

**ALTERNATIVE I**

**Article 36**

1. Where a person ceases to be subject to the legislation of a Contracting Party under which he has been registered with a provident fund, before the occurrence of a risk entitling him to obtain the payment of the amount credited to his account, he may, upon request, either withdraw the total amount or have it transferred to the institution to which he is affiliated in the territory of the Contracting Party to whose legislation he is now subject.

2. If this institution is itself a provident fund, the amount transferred shall be credited to the

account opened by this institution in the name of the person concerned.

3. If the institution referred to in paragraph 1 of this Article is competent in respect of pensions, the amount transferred shall be paid to the institution concerned in order to enable the person concerned to buy back periods for the purpose of acquiring or improving his rights to benefits under the legislation applied by this institution. The method of buying back periods shall be determined either in accordance with the provisions of that legislation or by mutual agreement between the Contracting Parties concerned.

**Article 37**

Where a person ceases to be subject to the legislation of a Contracting Party under which he had been affiliated to a pensions scheme in order to move to the territory of another Contracting Party under whose legislation he is registered with a provident fund, before having acquired the right to a pension under the legislation of the first Party,

(Alternative A) the pension rights in course of acquisition of this person for himself and his survivors are maintained until the conditions required for the receipt of the pension are satisfied. Failing this, the amount of the contributions paid by this person or on his behalf shall be transferred to the provident fund under conditions fixed by mutual agreement between the Contracting Parties concerned.

(Alternative B) the amount of the contributions paid by this person or on his behalf shall be transferred to the provident fund under the conditions fixed by mutual agreement between the Contracting Parties concerned.

**ALTERNATIVE II**

**Article 38**

1. Where the legislation of a Contracting Party makes the acquisition, maintenance or recovery of the right to pension conditional upon the completion of periods of insurance, employment, occupational activity or residence, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods during which a person was registered with a provident fund and required to make contributions to that fund.

2. Where the person concerned satisfies the conditions for payment of a pension taking account of paragraph 1 of this Article, the amount of the pension shall be determined in accordance with Article 8 to 13.

3. Where the legislation of a Contracting Party makes the payment of amounts credited

to a person's account under a provident fund conditional upon the completion of periods of contributions, the institution which applies that legislation shall, for the purpose of adding periods together, take account of periods of insurance, employment, occupational activity and residence completed under the legislation of a Contracting Party under which he was affiliated to a pensions scheme.

## ANNEX II

### Model Agreement for the coordination of bilateral or multilateral social security instruments

#### Article 1

For the purpose of this agreement:

- (a) the term **Contracting Party** means any State Member of the International Labour Organisation that is bound by the agreement;
- (b) the term **legislation** includes any social security rules as well as laws and regulations;
- (c) the term **refugee** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees of 28 July 1951 and in paragraph 2 of Article 1 of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation;
- (d) the term **stateless person** has the meaning assigned to it in Article 1 of the Convention relating to the Status of Stateless Persons of 28 September 1954;
- (e) the term **instrument** means any bilateral or multilateral instrument concerning the maintenance of rights in course of acquisition in social security that is binding or will be binding on two or more Contracting parties;
- (f) the term **institution** means any body or authority directly responsible for applying all or part of the legislation of a Contracting Party;
- (g) the term **periods of insurance** means periods of contribution, employment, occupational activity or residence which are defined or recognised as periods of insurance by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent to periods of insurance;
- (h) the terms **periods of employment and periods of occupational activity** mean periods defined or recognised as such by the legislation under which they were completed, and such other periods as are regarded by that legislation as equivalent

to periods of employment or periods of occupational activity, respectively;

- (i) the term **periods of residence** means periods of residence defined or recognised as such by the legislation under which they were completed;
- (j) the term **benefits** means all benefits in kind and in cash provided in respect of the contingency concerned, including death grants and:
  - (i) as benefits in kind, benefits aimed at the prevention of any contingency covered by social security, physical rehabilitation and vocational rehabilitation;
  - (ii) as benefits in cash, all components thereof provided out of public funds, and all increases, revaluation allowances or supplementary allowances, and only benefits awarded for the purpose of maintaining or improving earning capacity, lump-sum benefits which may be paid in lieu of pensions and, where applicable, any payments made by way of refund of contributions.

#### Article 2

In the field governed by this agreement, coverage by the provisions of each instrument binding on two or more Contracting Parties shall be extended to the nationals of any other Contracting Party, as well as to the refugees and stateless persons resident in the territory of any Contracting Party.

#### Article 3

This agreement shall be applicable to all persons covered by the provisions of two or more instruments.

#### Article 4

1. The provisions of an instrument binding on two or more Contracting Parties, concerning the adding together of periods of insurance, employment, occupational activity or residence for the acquisition, maintenance or recovery of the right to benefit shall be applicable to corresponding periods completed under the legislation of any other Contracting Party bound with the said Parties by an instrument which also comprises provisions concerning the adding together of such periods, provided that the periods to be added together are not overlapping.

2. If, under the provisions of paragraph 1 of this Article, the institution of a Contracting Party should apply the provisions of two or more instruments which contain different modalities for the adding together of periods, this institution shall apply exclusively the

provisions which are most favourable for the person concerned.

3. In the case of benefits which, under all relevant instruments, are awarded in conformity with the legislation of only one Contracting Party, the adding together referred to in paragraph 1 of this Article is carried out only to the extent necessary for the acquisition, maintenance or recovery of the right to the most favourable benefits provided for under this legislation.

#### **Article 5**

1. If the provisions of Article 4 are applicable, invalidity, old-age and survivors' benefits are determined in conformity with the provisions of paragraphs 2 to 4 of this Article.

2. If all the relevant instruments have recourse to the method of apportionment, the institution of each Contracting Party shall apply the provisions of the instruments by which this Party is bound, regard being had to the adding together of periods carried out according to the

provisions of Article 4, paragraphs 1 and 2; however, it shall only award the highest amount of the benefits determined under these instruments.

3. If all the relevant instruments have recourse to the method of integration, the institution of the Contracting Party which should award the benefits shall take into account for this purpose the provisions of Article 4.

4. If the relevant instruments have recourse respectively to the method of apportionment and the method of integration, the institution of each Contracting Party shall apply the provisions of the instruments by which this Party is bound, regard being had to the adding together of periods carried out according to the provisions of Article 4; however, only the benefits resulting from the application of the most favourable method shall be awarded to the person concerned.

## **R176 – Employment Promotion and Protection against Unemployment Recommendation, 1988**

### **Preamble**

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-fifth Session on 1 June 1988, and

Having decided upon the adoption of certain proposals with regard to employment promotion and social security 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 Employment Promotion and Protection against Unemployment Convention, 1988,

adopts this twenty-first day of June of the year one thousand nine hundred and eighty-eight, the following Recommendation, which may be cited as the Employment Promotion and Protection against Unemployment Recommendation, 1988.

### **I. General Provisions**

1. In this Recommendation:

- (a) the term **legislation** includes any social security rules as well as laws and regulations;
- (b) the term **prescribed** means determined by or in virtue of national legislation;

- (c) the term **the Convention** means the Employment Promotion and Protection against Unemployment Convention, 1988.

### **II. Promotion of Productive Employment**

2. The promotion of full, productive and freely chosen employment by all appropriate means, including through social security, should be a priority objective of national policy. Such means should include, inter alia, employment services, vocational training and vocational guidance.

3. In periods of economic crisis, adjustment policies should include, under prescribed conditions, measures to encourage initiatives which involve the maximum use of labour on a large scale.

4. Members should endeavour to grant in particular, under prescribed conditions and in the most appropriate manner, by way of occupational mobility incentives:

- (a) allowances towards the costs of travel and equipment necessary to take advantage of the services provided for in Paragraph 2 above;
- (b) allowances in the form of periodical payments calculated in accordance with the provisions of Article 15 of the Convention for a prescribed period of vocational training or retraining.

5. Members should in addition consider granting in particular, under prescribed conditions and in the most appropriate manner, by way of occupational or geographical mobility incentives:

- (a) temporary degressive allowances designed to offset, where appropriate, a reduction in pay as a result of redeployment;
- (b) allowances towards travel and removal costs;
- (c) separation allowances;
- (d) resettlement grants.

6. Members should ensure co-ordination of statutory pension schemes and encourage co-ordination of private pension schemes in order to remove barriers to occupational mobility.

7. Members should offer to protected persons, under prescribed conditions, facilities to enable them to engage in remunerated temporary employment without endangering the employment of other workers and with the purpose of improving their own chances of obtaining productive and freely chosen employment.

8. Members should, as far as possible, offer to unemployed persons who wish to set up their own business or take up another economic activity, financial assistance and advisory services under prescribed conditions.

9. Members should give consideration to the conclusion of bilateral and multilateral agreements which provide for assistance to foreign workers protected by their legislation who freely wish to return to the territory of the State of which they are nationals or in which they formerly resided. Where such agreements do not exist, Members should provide, through national legislation, financial assistance to the workers concerned.

10. Members should, in accordance, if appropriate, with provisions in multilateral agreements, invest any reserves accumulated by statutory pension schemes and provident funds in such a way as to promote and not to discourage employment within the country, and encourage such investment from private sources, including private pension schemes, while at the same time affording the necessary guarantees of security and yield of the investment.

11. The progressive introduction in rural and urban areas of community services, including health-care services, financed by social security contributions or by other sources, should lead to increased employment and the provision of training of personnel, while at the same time making a practical contribution to

the achievement of national objectives regarding employment promotion.

### III. Protection of Unemployed Persons

12. In case of partial unemployment and in the case referred to in Article 10, paragraph 3, of the Convention, benefit should be provided, under prescribed conditions, in the form of periodical payments fairly compensating for the loss of earnings due to unemployment. These benefits might be calculated in the light of the reduction of hours of work suffered by the unemployed persons or so that the total of the benefit and the earnings from the part-time work reaches a sum between the amount of the previous earnings from full-time work and the amount of the full unemployment benefit, so as not to discourage part-time or temporary work, when these forms of work may assist in a return to full-time work.

13. (1) The percentages specified in Article 15 of the Convention for the calculation of benefits should be reached on the basis of the gross earnings of the beneficiary before tax and social security contributions.

(2) If appropriate, these percentages may be reached by comparing net periodical payments after tax and contributions with net earnings after tax and contributions.

14. (1) The concept of suitable employment should, under prescribed conditions, not apply to:

- (a) employment involving a change of occupation which does not take account of the abilities, qualifications, skills, work experience or the retraining potential of the person concerned;
- (b) employment involving a change of residence to a place in which suitable accommodation is not available;
- (c) employment in which the conditions and remuneration are appreciably less favourable than those which are generally granted, at the relevant time, in the occupation and district in which the employment is offered;
- (d) employment vacant as a direct result of a stoppage due to an ongoing labour dispute;
- (e) employment such that, for a reason other than those covered in clauses (a) to (d), and with due regard to all attendant circumstances, including the family responsibilities of the person concerned, the refusal of the employment is not unreasonable.

(2) In assessing the criteria specified in clauses (a) to (c) and (e) above, account should be taken in general of the age of the

unemployed persons, of their length of service in their former occupation, of their acquired experience, of the duration of their unemployment, of the state of the labour market and of the repercussions of the employment on their personal and family situations.

15. If an unemployed person has agreed to accept, for a prescribed maximum period, temporary employment which cannot be regarded as suitable within the meaning of Paragraph 14 above, or part-time employment in the circumstances covered in Article 10, paragraph 3, of the Convention, the level and duration of unemployment benefit paid at the end of such employment should not be adversely affected by the earnings of the unemployed person from that employment.

16. Members should endeavour to extend progressively the application of their legislation concerning unemployment benefit to cover all employees. However, public employees whose employment up to normal retirement age is guaranteed by national laws or regulations may be excluded from protection.

17. Members should endeavour to protect workers who are experiencing hardship in a waiting period.

18. The following provisions should be applicable, as appropriate, to the categories of persons mentioned in Article 26, paragraph 1, of the Convention:

- (a) in cases of full unemployment, the benefit may be calculated in accordance with the provisions of Article 16 of the Convention;
- (b) the qualifying period should be adapted or waived, under prescribed conditions, for certain of the categories of persons newly seeking work;
- (c) when benefit is provided without a qualifying period:
  - (i) the waiting period may be increased to a prescribed length;
  - (ii) the duration of payment of benefit may be limited under prescribed conditions notwithstanding the provision of Article 19, paragraph 1, of the Convention.

19. When the duration of payment of benefit is limited by national legislation, it should be extended, under prescribed conditions, until pensionable age for unemployed persons who have reached a prescribed age prior to the pensionable age.

20. Members whose legislation provides for the rights to medical care and makes it directly or indirectly conditional upon occupational activity should endeavour to ensure, under prescribed conditions, the provision of medical

care to unemployed persons, including, if possible, those who are not in receipt of unemployment benefit, and to their dependants.

21. Members should endeavour to guarantee to persons in receipt of unemployment benefit, under prescribed conditions, that the periods during which benefits are paid will be taken into consideration:

- (a) for acquisition of the right to and, where appropriate, calculation of disability, old-age and survivors' benefit, and
- (b) for acquisition of the right to medical care and sickness, maternity and family benefit after the end of unemployment, when the legislation of the Member concerned provides for such benefits and makes them directly or indirectly conditional upon occupational activity.

22. Members should endeavour to make adjustments of statutory social security schemes which are based on occupational activity to the occupational circumstances of part-time workers. Such adjustments, provided for in Article 25 of the Convention, should relate in particular, under prescribed conditions to:

- (a) the minimum hours of work and minimum earnings necessary for the entitlement to benefits under the basic and supplementary schemes;
- (b) maximum earnings for the calculation of contributions;
- (c) the qualifying period for entitlement to benefit;
- (d) the methods of calculating cash benefits, in particular pensions, on the basis of earnings and of the length of the period of contribution, insurance or occupational activity;
- (e) entitlement to non-reduced minimum benefits and flat-rate benefits, in particular family allowances.

23. Members should endeavour to promote a real understanding of the hardships of unemployed persons, particularly those who have been unemployed for a long period, and their need for sufficient income.

#### **IV. Development and Improvement of Systems of Protection**

24. Since the systems of protection for the unemployed of some Members are in the early stages of development and others may have to consider changes to existing schemes in the light of changing needs, a variety of approaches may legitimately be taken in assisting the unemployed, and Members

should give high priority to a full and frank exchange of information on programmes of assistance for the unemployed.

25. With a view to reaching at least the standards laid down in Part IV (Unemployment Benefit) of the Social Security (Minimum Standards) Convention, 1952, Members which intend to develop their system of protection against unemployment should be guided, in so far as is possible and appropriate, by the following provisions.

26. (1) Members should be aware of the technical and administrative difficulties involved in the planning and introduction of social security mechanisms for the compensation of unemployment. In order to introduce forms of unemployment compensation through the payment of benefits of a non-discretionary nature, they should seek to meet the following conditions as soon as possible:

- (a) the introduction and satisfactory operation of a free public employment service containing a network of employment offices and having acquired sufficient administrative capacity to collect and analyse information on the employment market, to register job offers and jobseekers and to verify objectively that persons are involuntarily unemployed;
- (b) a reasonable level of coverage by and extensive experience in the administration of other branches of social security deemed to have priority on social and economic grounds, such as primary health care and compensation for employment accidents.

(2) Members should, as a major priority, seek to meet the conditions set out in subparagraph (1) above by promoting a sufficiently high level of stable employment offering adequate wages and working conditions, in particular through necessary and appropriate measures, such as vocational guidance and training, to facilitate voluntary matching of skills on the labour market to available job vacancies.

(3) The co-operation and technical advice of the International Labour Office should

continue to be put to good advantage in supporting any initiative taken by Members in this respect in cases where there is insufficient national expertise.

(4) When the conditions specified in subparagraph (1) above are met, Members should, as rapidly as their resources permit, and if necessary in stages, introduce programmes for the protection of the unemployed, including social security mechanisms for the compensation of unemployment.

27. In cases where the conditions referred to in Paragraph 26 (1) are not met, Members should give priority to special assistance measures for the most needy unemployed persons, to the extent permitted by the available resources and in the context of national conditions.

28. Members which have set up a national provident fund might examine the possibility of authorising the payment of periodical cash benefits to the holders of accounts whose earnings are interrupted by long-term unemployment and whose family situation is precarious in order to provide for their essential needs. The level of this benefit and the period during which it is payable might be limited according to the circumstances, in particular the amount credited to the account.

29. Members might also encourage employers' and workers' organisations to set up assistance funds at the enterprise or inter-enterprise level. These could advantageously be introduced in the enterprises and sectors of activity which have sufficient economic capacity.

30. Members whose laws or regulations require employers to make severance payments to workers who have lost their jobs should envisage making provision for the employers to bear this responsibility in common through the creation of funds financed by employers' contributions, so as to ensure the receipt of these payments by the workers concerned.

## R191 – Maternity Protection Recommendation, 2000

### Preamble

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 88th Session on 30 May 2000, and Having decided upon the adoption

of certain proposals with regard to maternity protection, 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 Maternity Protection Convention, 2000 (hereinafter referred to as "the Convention"),

adopts this fifteenth day of June of the year two thousand the following Recommendation, which may be cited as the Maternity Protection Recommendation, 2000.

#### MATERNITY LEAVE

1. (1) Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.

(2) Provision should be made for an extension of the maternity leave in the event of multiple births.

(3) To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.

#### BENEFITS

2. Where practicable, and after consultation with the representative organizations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

3. To the extent possible, the medical benefits provided for in Article 6, paragraph 7, of the Convention should include:

- (a) care given in a doctor's office, at home or in a hospital or other medical establishment by a general practitioner or a specialist;
- (b) maternity care given by a qualified midwife or by another maternity service at home or in a hospital or other medical establishment;
- (c) maintenance in a hospital or other medical establishment;
- (d) any necessary pharmaceutical and medical supplies, examinations and tests prescribed by a medical practitioner or other qualified person; and
- (e) dental and surgical care.

#### FINANCING OF BENEFITS

4. Any contribution due under compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.

#### EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

5. A woman should be entitled to return to her former position or an equivalent position paid at the same rate at the end of her leave referred to in Article 5 of the Convention. The period of leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for the determination of her rights.

#### HEALTH PROTECTION

6. (1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.

(2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:

- (a) elimination of risk;
  - (b) an adaptation of her conditions of work;
  - (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
  - (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.
- (3) Measures referred to in subparagraph (2) should in particular be taken in respect of:
- (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
  - (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
  - (c) work requiring special equilibrium;
  - (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.

(4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

(5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.

(6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

### BREASTFEEDING MOTHERS

7. On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.

8. Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.

9. Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

### RELATED TYPES OF LEAVE

10. (1) In the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.

(2) In the case of sickness or hospitalization of the mother after childbirth and before the

expiry of postnatal leave, and where the mother cannot look after the child, the employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.

(3) The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave.

(4) The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any manner consistent with national practice.

(5) Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.

## R202 – Social Protection Floors Recommendation, 2012

### Preamble

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.

11. (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.

11. (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.

24. (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.

## **R204 – Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)**

### **Preamble**

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 104th Session on 1 June 2015, and

Recognizing that the high incidence of the informal economy in all its aspects is a major challenge for the rights of workers, including the fundamental principles and rights at work, and for social protection, decent working conditions, inclusive development and the rule of law, and has a negative impact on the development of sustainable enterprises, public revenues and governments' scope of action, particularly with regard to economic, social and environmental policies, the soundness of institutions and fair competition in national and international markets, and

Acknowledging that most people enter the informal economy not by choice but as a consequence of a lack of opportunities in the formal economy and in the absence of other means of livelihood, and

Recalling that decent work deficits – the denial of rights at work, the absence of sufficient opportunities for quality employment, inadequate social protection and the absence of social dialogue – are most pronounced in the informal economy, and

Acknowledging that informality has multiple causes, including governance and structural issues, and that public policies can speed up the process of transition to the formal economy, in a context of social dialogue, and

Recalling the Declaration of Philadelphia, 1944, the Universal Declaration of Human Rights, 1948, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, and the ILO

Declaration on Social Justice for a Fair Globalization, 2008, and

Reaffirming the relevance of the eight ILO fundamental Conventions and other relevant international labour standards and United Nations instruments as listed in the Annex, and Recalling the resolution and Conclusions concerning decent work and the informal economy adopted by the International Labour Conference at its 90th Session (2002), and other relevant resolutions and Conclusions as listed in the Annex, and

Affirming that the transition from the informal to the formal economy is essential to achieve inclusive development and to realize decent work for all, and

Recognizing the need for Members to take urgent and appropriate measures to enable the transition of workers and economic units from the informal to the formal economy, while ensuring the preservation and improvement of existing livelihoods during the transition, and

Recognizing that employers' and workers' organizations play an important and active role in facilitating the transition from the informal to the formal economy, and

Having decided upon the adoption of certain proposals with regard to the transition from the informal to the formal economy, which is the fifth item on the agenda of the session, and

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

adopts this twelfth day of June of the year two thousand and fifteen the following Recommendation, which may be cited as the Transition from the Informal to the Formal Economy Recommendation, 2015.

### **I. OBJECTIVES AND SCOPE**

1. This Recommendation provides guidance to Members to:

- (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
- (b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
- (c) prevent the formalization of formal economy jobs.

2. For the purposes of this Recommendation, the term "informal economy":

- (a) refers to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements; and
- (b) does not cover illicit activities, in particular the provision of services or the production, sale, possession or use of goods forbidden by law, including the illicit production and trafficking of drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons, and money laundering, as defined in the relevant international treaties.

3. For the purposes of this Recommendation, "economic units" in the informal economy include:

- (a) units that employ hired labour;
- (b) units that are owned by individuals working on their own account, either alone or with the help of contributing family workers; and
- (c) cooperatives and social and solidarity economy units.

4. This Recommendation applies to all workers and economic units – including enterprises, entrepreneurs and households – in the informal economy, in particular:

- (a) those in the informal economy who own and operate economic units, including:
  - (i) own-account workers;
  - (ii) employers; and
  - (iii) members of cooperatives and of social and solidarity economy units;
- (b) contributing family workers, irrespective of whether they work in economic units in the formal or informal economy;
- (c) employees holding informal jobs in or for formal enterprises, or in or for economic units in the informal economy, including but not limited to those in subcontracting and in supply chains, or as paid domestic workers employed by households; and

- (d) workers in unrecognized or unregulated employment relationships.

5. Informal work may be found across all sectors of the economy, in both public and private spaces.

6. In giving effect to the provisions of Paragraphs 2 to 5 above, and given the diversity of the informal economy across member States, the competent authority should identify the nature and extent of the informal economy as described in this Recommendation, and its relationship to the formal economy. In so doing, the competent authority should make use of tripartite mechanisms with the full participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

## II. GUIDING PRINCIPLES

7. In designing coherent and integrated strategies to facilitate the transition to the formal economy, Members should take into account the following:

- (a) the diversity of characteristics, circumstances and needs of workers and economic units in the informal economy, and the necessity to address such diversity with tailored approaches;
- (b) the specific national circumstances, legislation, policies, practices and priorities for the transition to the formal economy;
- (c) the fact that different and multiple strategies can be applied to facilitate the transition to the formal economy;
- (d) the need for coherence and coordination across a broad range of policy areas in facilitating the transition to the formal economy;
- (e) the effective promotion and protection of the human rights of all those operating in the informal economy;
- (f) the fulfilment of decent work for all through respect for the fundamental principles and rights at work, in law and practice;
- (g) the up-to-date international labour standards that provide guidance in specific policy areas (see Annex);
- (h) the promotion of gender equality and non-discrimination;
- (i) the need to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous and tribal peoples,

persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers and subsistence farmers;

- (j) the preservation and expansion, during the transition to the formal economy, of the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy;
- (k) the need for a balanced approach combining incentives with compliance measures; and
- (l) the need to prevent and sanction deliberate avoidance of, or exit from, the formal economy for the purpose of evading taxation and the application of social and labour laws and regulations.

### III. LEGAL AND POLICY FRAMEWORKS

8. Members should undertake a proper assessment and diagnostics of factors, characteristics, causes and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy.

9. Members should adopt, review and enforce national laws and regulations or other measures to ensure appropriate coverage and protection of all categories of workers and economic units.

10. Members should ensure that an integrated policy framework to facilitate the transition to the formal economy is included in national development strategies or plans as well as in poverty reduction strategies and budgets, taking into account, where appropriate, the role of different levels of government.

11. This integrated policy framework should address:

- (a) the promotion of strategies for sustainable development, poverty eradication and inclusive growth, and the generation of decent jobs in the formal economy;
- (b) the establishment of an appropriate legislative and regulatory framework;
- (c) the promotion of a conducive business and investment environment;
- (d) respect for and promotion and realization of the fundamental principles and rights at work;
- (e) the organization and representation of employers and workers to promote social dialogue;
- (f) the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace;

- (g) the promotion of entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models and economic units, such as cooperatives and other social and solidarity economy units;
- (h) access to education, lifelong learning and skills development;
- (i) access to financial services, including through a regulatory framework promoting an inclusive financial sector;
- (j) access to business services;
- (k) access to markets;
- (l) access to infrastructure and technology;
- (m) the promotion of sectoral policies;
- (n) the establishment of social protection floors, where they do not exist, and the extension of social security coverage;
- (o) the promotion of local development strategies, both rural and urban, including regulated access for use of public space and regulated access to public natural resources for subsistence livelihoods;
- (p) effective occupational safety and health policies;
- (q) efficient and effective labour inspections;
- (r) income security, including appropriately designed minimum wage policies;
- (s) effective access to justice; and
- (t) international cooperation mechanisms.

12. When formulating and implementing an integrated policy framework, Members should ensure coordination across different levels of government and cooperation between the relevant bodies and authorities, such as tax authorities, social security institutions, labour inspectorates, customs authorities, migration bodies and employment services, among others, depending on national circumstances.

13. Members should recognize the importance of safeguarding the opportunities of workers and economic units for income security in the transition to the formal economy by providing the means for such workers or economic units to obtain recognition of their existing property as well as by providing the means to formalize property rights and access to land.

### IV. EMPLOYMENT POLICIES

14. In pursuing the objective of quality job creation in the formal economy, Members should formulate and implement a national employment policy in line with the Employment Policy Convention, 1964 (No. 122), and make full, decent, productive and freely chosen employment a central goal in their national development and growth strategy or plan.

15. Members should promote the implementation of a comprehensive employment policy framework, based on tripartite consultations, that may include the following elements:

- (a) pro-employment macroeconomic policies that support aggregate demand, productive investment and structural transformation, promote sustainable enterprises, support business confidence, and address inequalities;
- (b) trade, industrial, tax, sectoral and infrastructure policies that promote employment, enhance productivity and facilitate structural transformation processes;
- (c) enterprise policies that promote sustainable enterprises and, in particular, the conditions for a conducive environment, taking into account the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007), including support to micro, small and medium-sized enterprises and entrepreneurship, and well-designed, transparent and well-communicated regulations to facilitate formalization and fair competition;
- (d) labour market policies and institutions to help low-income households to escape poverty and access freely chosen employment, such as appropriately designed wage policies including minimum wages, social protection schemes including cash transfers, public employment programmes and guarantees, and enhanced outreach and delivery of employment services to those in the informal economy;
- (e) labour migration policies that take into account labour market needs and promote decent work and the rights of migrant workers;
- (f) education and skills development policies that support lifelong learning, respond to the evolving needs of the labour market and to new technologies, and recognize prior learning such as through informal apprenticeship systems, thereby broadening options for formal employment;
- (g) comprehensive activation measures to facilitate the school-to-work transition of young people, in particular those who are disadvantaged, such as youth guarantee schemes to provide access to training and continuing productive employment;
- (h) measures to promote the transition from unemployment or inactivity to work, in particular for long-term unemployed

persons, women and other disadvantaged groups; and

- (i) relevant, accessible and up-to-date labour market information systems.

#### **V. RIGHTS AND SOCIAL PROTECTION**

16. Members should take measures to achieve decent work and to respect, promote and realize the fundamental principles and rights at work for those in the informal economy, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

17. Members should:

- (a) take immediate measures to address the unsafe and unhealthy working conditions that often characterize work in the informal economy; and
- (b) promote and extend occupational safety and health protection to employers and workers in the informal economy.

18. Through the transition to the formal economy, Members should progressively extend, in law and practice, to all workers in the informal economy, social security, maternity protection, decent working conditions and a minimum wage that takes into account the needs of workers and considers relevant factors, including but not limited to the cost of living and the general level of wages in their country.

19. In building and maintaining national social protection floors within their social security system and facilitating the transition to the formal economy, Members should pay particular attention to the needs and circumstances of those in the informal economy and their families.

20. Through the transition to the formal economy, Members should progressively extend the coverage of social insurance to those in the informal economy and, if necessary, adapt administrative procedures, benefits and contributions, taking into account their contributory capacity.

21. Members should encourage the provision of and access to affordable quality childcare and other care services in order to promote gender equality in entrepreneurship and employment opportunities and to enable the transition to the formal economy.

## **VI. INCENTIVES, COMPLIANCE AND ENFORCEMENT**

22. Members should take appropriate measures, including through a combination of preventive measures, law enforcement and effective sanctions, to address tax evasion and avoidance of social contributions, labour laws and regulations. Any incentives should be linked to facilitating the effective and timely transition from the informal to the formal economy.

23. Members should reduce, where appropriate, the barriers to the transition to the formal economy and take measures to promote anti-corruption efforts and good governance.

24. Members should provide incentives for, and promote the advantages of, effective transition to the formal economy, including improved access to business services, finance, infrastructure, markets, technology, education and skills programmes, and property rights.

25. With respect to the formalization of micro and small economic units, Members should:

- (a) undertake business entry reforms by reducing registration costs and the length of the procedure, and by improving access to services, for example, through information and communication technologies;
- (b) reduce compliance costs by introducing simplified tax and contributions assessment and payment regimes;
- (c) promote access to public procurement, consistent with national legislation, including labour legislation, through measures such as adapting procurement procedures and volumes, providing training and advice on participating in public tenders, and reserving quotas for these economic units;
- (d) improve access to inclusive financial services, such as credit and equity, payment and insurance services, savings, and guarantee schemes, tailored to the size and needs of these economic units;
- (e) improve access to entrepreneurship training, skills development and tailored business development services; and
- (f) improve access to social security coverage.

26. Members should put in place appropriate mechanisms or review existing mechanisms with a view to ensuring compliance with national laws and regulations, including but not limited to ensuring recognition and enforcement of employment relationships, so as to facilitate the transition to the formal economy.

27. Members should have an adequate and appropriate system of inspection, extend coverage of labour inspection to all workplaces in the informal economy in order to protect workers, and provide guidance for enforcement bodies, including on how to address working conditions in the informal economy.

28. Members should take measures to ensure the effective provision of information, assistance in complying with the relevant laws and regulations, and capacity building for relevant actors.

29. Members should put in place efficient and accessible complaint and appeal procedures.

30. Members should provide for preventive and appropriate corrective measures to facilitate the transition to the formal economy, and ensure that the administrative, civil or penal sanctions provided for by national laws for non-compliance are adequate and strictly enforced.

## **VII. FREEDOM OF ASSOCIATION, SOCIAL DIALOGUE AND ROLE OF EMPLOYERS' AND WORKERS' ORGANIZATIONS**

31. Members should ensure that those in the informal economy enjoy freedom of association and the right to collective bargaining, including the right to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing

32. Members should create an enabling environment for employers and workers to exercise their right to organize and to bargain collectively and to participate in social dialogue in the transition to the formal economy

33. Employers' and workers' organizations should, where appropriate, extend membership and services to workers and economic units in the informal economy

34. In designing, implementing and evaluating policies and programmes of relevance to the informal economy, including its formalization, Members should consult with and promote active participation of the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy

35. Members and employers' and workers' organizations may seek the assistance of the International Labour Office to strengthen the capacity of the representative employers' and workers' organizations and, where they exist,

representative organizations of those in the informal economy, to assist workers and economic units in the informal economy, with a view to facilitating the transition to the formal economy

### VIII. DATA COLLECTION AND MONITORING

36. Members should, in consultation with employers' and workers' organizations, on a regular basis:

- (a) where possible and as appropriate, collect, analyse and disseminate statistics disaggregated by sex, age, workplace, and other specific socio-economic characteristics on the size and composition of the informal economy, including the number of informal economic units, the number of workers employed and their sectors; and
- (b) monitor and evaluate the progress towards formalization.

37. In developing or revising the concepts, definitions and methodology used in the production of data, statistics and indicators on the informal economy, Members should take into consideration relevant guidance provided by the International Labour Organization, in particular and as appropriate, the guidelines concerning a statistical definition of informal employment adopted by the 17th International Conference of Labour Statisticians in 2003 and their subsequent updates.

### IX. IMPLEMENTATION

38. Members should give effect to the provisions of this Recommendation, in consultation with the most representative employers' and workers' organizations, which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy, by one or a combination of the following means, as appropriate;

- (a) national laws and regulations;
- (b) collective agreements;
- (c) policies and programmes;
- (d) effective coordination among government bodies and other stakeholders;
- (e) institutional capacity building and resource mobilization; and
- (f) other measures consistent with national law and practice.

39. Members should review on a regular basis, as appropriate, the effectiveness of policies and measures to facilitate the transition to the formal economy, in consultation with the most representative employers' and workers' organizations, which should include in their rank,

according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy.

40. In establishing, developing, implementing and periodically reviewing the measures taken to facilitate the transition to the formal economy, Members should take into account the guidance provided by the instruments of the International Labour Organization and the United Nations relevant to the informal economy listed in the Annex.

41. Nothing in this Recommendation should be construed as reducing the protections afforded to those in the informal economy by other instruments of the International Labour Organization.

42. The Annex may be revised by the Governing Body of the International Labour Office. Any revised Annex so established, once approved by the Governing Body, shall replace the preceding annex and shall be communicated to the Members of the International Labour Organization.

### ANNEX

#### **Instruments of the International Labour Organization and the United Nations relevant to facilitating the transition from the informal to the formal economy**

Instruments of the International Labour Organization

#### ***Fundamental Conventions***

- Forced Labour Convention, 1930 (No. 29), and Protocol of 2014 to the Forced Labour Convention, 1930
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Equal Remuneration Convention, 1951 (No. 100)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

#### ***Governance Conventions***

- Labour Inspection Convention, 1947 (No. 81)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)

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

**Other instruments**

*Freedom of association, collective bargaining and industrial relations*

- Rural Workers' Organisations Convention, 1975 (No. 141)
- Collective Bargaining Convention, 1981 (No. 154)

*Equality of opportunity and treatment*

- Workers with Family Responsibilities Convention, 1981 (No. 156)

*Employment policy and promotion*

- Employment Policy Recommendation, 1964 (No. 122)
- Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
- Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
- Private Employment Agencies Convention, 1997 (No. 181)
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)
- Promotion of Cooperatives Recommendation, 2002 (No. 193)
- Employment Relationship Recommendation, 2006 (No. 198)

*Vocational guidance and training*

- Human Resources Development Convention, 1975 (No. 142)
- Human Resources Development Recommendation, 2004 (No. 195)

*Wages*

- Labour Clauses (Public Contracts) Convention (No. 94) and Recommendation (No. 84), 1949
- Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), 1970

*Occupational safety and health*

- Occupational Safety and Health Convention, 1981 (No. 155)
- Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192), 2001

- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

*Social security*

- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Social Protection Floors Recommendation, 2012 (No. 202)

*Maternity protection*

- Maternity Protection Convention, 2000 (No. 183)

*Migrant workers*

- Migration for Employment Convention (Revised), 1949 (No. 97)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

*HIV and AIDS*

- HIV and AIDS Recommendation, 2010 (No. 200)

*Indigenous and tribal peoples*

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

*Specific categories of workers*

- Home Work Convention, 1996 (No. 177)
- Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011

*Resolutions of the International Labour Conference*

- Resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (2007)
- Resolution and Conclusions concerning the youth employment crisis adopted by the International Labour Conference at its 101st Session (2012)
- Resolution and Conclusions concerning the second recurrent discussion on employment adopted by the International Labour Conference at its 103rd Session (2014)

**United Nations instruments**

- Universal Declaration of Human Rights, 1948
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Covenant on Civil and Political Rights, 1966
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990

## R205 – Employment and Decent Work for Peace and Resilience Recommendation, 2017

### Preamble

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 106th Session on 5 June 2017, and

Reaffirming the principle in the Constitution of the International Labour Organisation (ILO) that universal and lasting peace can be established only if it is based upon social justice, and

Recalling the Declaration of Philadelphia (1944), the Universal Declaration of Human Rights (1948), the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Taking into account the need to revise the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), with a view to broadening its scope and providing up-to-date guidance on the role of employment and decent work in prevention, recovery, peace and resilience with respect to crisis situations arising from conflicts and disasters, and

Considering the impact and consequences of conflicts and disasters for poverty and development, human rights and dignity, decent work and sustainable enterprises, and

Recognizing the importance of employment and decent work for promoting peace, preventing crisis situations arising from conflicts and disasters, enabling recovery and building resilience, and

Recognizing that the countries receiving refugees may not be in situations of conflicts and disasters, and

Emphasizing the need to ensure respect for all human rights and the rule of law, including respect for fundamental principles and rights at work and for international labour standards, in particular those rights and principles relevant to employment and decent work, and

Considering the need to recognize that crises affect women and men differently, and the critical importance of gender equality and the empowerment of women and girls in promoting peace, preventing crises, enabling recovery and building resilience, and

Recognizing the importance of developing responses, through social dialogue, to crisis situations arising from conflicts and disasters, in consultation with the most representative employers' and workers' organizations and, as appropriate, with relevant civil society organizations, and

Noting the importance of creating or restoring an enabling environment for sustainable enterprises, taking into account the resolution and Conclusions concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96<sup>th</sup> Session (2007), and in particular for small and medium-sized enterprises, to stimulate employment generation, economic recovery and development, and

Affirming the need to develop and strengthen measures of social protection, as a means of preventing crises, enabling recovery and building resilience, and

Recognizing the role of accessible and quality public services in economic recovery, development, reconstruction efforts, prevention and resilience, and

Stressing the need for international cooperation and partnerships among regional and international organizations to ensure joint and coordinated efforts, and

Having decided upon the adoption of certain proposals with regard to employment and decent work for peace and resilience, which is the fifth item on the agenda of the session, and Having determined that these proposals shall take the form of a Recommendation,

adopts this sixteenth day of June of the year two thousand and seventeen the following Recommendation, which may be cited as the Employment and Decent Work for Peace and Resilience Recommendation, 2017:

### I. Objectives and scope

1. This Recommendation provides guidance to Members on the measures to be taken to generate employment and decent work for the purposes of prevention, recovery, peace and resilience with respect to crisis situations arising from conflicts and disasters.

2. For the purposes of this Recommendation and based upon internationally agreed terminology:

(a) the term "disaster" means a serious disruption of the functioning of a

- community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts; and
- (b) the term “resilience” means the ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management.
3. For the purposes of this Recommendation, the term “crisis response” refers to all measures on employment and decent work taken in response to crisis situations arising from conflicts and disasters.
4. This Recommendation applies to all workers and jobseekers, and to all employers, in all sectors of the economy affected by crisis situations arising from conflicts and disasters.
5. The references in this Recommendation to fundamental principles and rights at work, to safety and health and to working conditions apply also to workers engaged in crisis response, including in the immediate response. The references in this Recommendation to human rights and to safety and health apply equally to persons in volunteer work participating in crisis response.
6. The provisions of this Recommendation are without prejudice to the rights and obligations of Members under international law, in particular international humanitarian law, international refugee law and international human rights law.

## II. Guiding principles

7. In taking measures on employment and decent work in response to crisis situations arising from conflicts and disasters, and with a view to prevention, Members should take into account the following:
- (a) the promotion of full, productive, freely chosen employment and decent work which are vital to promoting peace, preventing crises, enabling recovery and building resilience;
- (b) the need to respect, promote and realize the fundamental principles and rights at work, other human rights and other relevant international labour standards, and to take into account other international instruments and documents, as appropriate and applicable;
- (c) the importance of good governance and combating corruption and clientelism;

- (d) the need to respect national laws and policies and use local knowledge, capacity and resources;
- (e) the nature of the crisis and the extent of its impact on the capacity of governments, including regional and local government, employers’ and workers’ organizations, and other national and relevant institutions, to provide effective responses, with the necessary international cooperation and assistance, as required;
- (f) the need to combat discrimination, prejudice and hatred on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, disability, age or sexual orientation or any other grounds;
- (g) the need to respect, promote and realize equality of opportunity and treatment for women and men without discrimination of any kind;
- (h) the need to pay special attention to population groups and individuals who have been made particularly vulnerable by the crisis, including, but not limited to, children, young persons, persons belonging to minorities, indigenous and tribal peoples, persons with disabilities, internally displaced persons, migrants, refugees and other persons forcibly displaced across borders;
- (i) the importance of identifying and monitoring any negative and unintended consequences and avoiding harmful spillover effects on individuals, communities, the environment and the economy;
- (j) the need for a just transition towards an environmentally sustainable economy as a means for sustainable economic growth and social progress;
- (k) the importance of social dialogue;
- (l) the importance of national reconciliation, where applicable;
- (m) the need for international solidarity, burden and responsibility-sharing and cooperation in accordance with international law; and
- (n) the need for close coordination and synergies between humanitarian and development assistance, including for the promotion of full, productive, freely chosen employment and decent work and income generation opportunities, avoiding the duplication of efforts and mandates.

## III. Strategic approaches

8. Members should adopt a phased multi-track approach implementing coherent and

comprehensive strategies for promoting peace, preventing crises, enabling recovery and building resilience that include:

- (a) stabilizing livelihoods and income through immediate social protection and employment measures;
- (b) promoting local economic recovery for employment and decent work opportunities and socio-economic reintegration;
- (c) promoting sustainable employment and decent work, social protection and social inclusion, sustainable development, the creation of sustainable enterprises, in particular small and medium-sized enterprises, the transition from the informal to the formal economy, a just transition towards an environmentally sustainable economy and access to public services;
- (d) ensuring consultation and encouraging active participation of employers' and workers' organizations in planning, implementing and monitoring measures for recovery and resilience, taking into account, as appropriate, the views of the relevant civil society organizations;
- (e) conducting employment impact assessments of national recovery programmes implemented through public and private investment in order to promote full, productive, freely chosen employment and decent work for all women and men, in particular for young persons and persons with disabilities;
- (f) providing guidance and support to employers to enable them to take effective measures to identify, prevent, mitigate and account for how they address the risks of adverse impacts on human and labour rights in their operations, or in products, services or operations to which they may be directly linked;
- (g) applying a gender perspective in all crisis prevention and response design, implementation, monitoring and evaluation activities;
- (h) creating economic, social and legal frameworks at the national level to encourage lasting and sustainable peace and development, while respecting rights at work;
- (i) promoting social dialogue and collective bargaining;
- (j) building or restoring labour market institutions, including employment services, for stabilization and recovery;
- (k) developing the capacity of governments, including regional and local authorities, and

of employers' and workers' organizations; and

- (l) taking measures, as appropriate, for the socio-economic reintegration of persons who have been affected by a crisis, in particular those formerly associated with armed forces and groups, including through training programmes that aim to improve their employability.
9. Crisis response in the immediate aftermath of a conflict or disaster should include, as appropriate:
- (a) a coordinated and inclusive needs assessment with a clear gender perspective;
  - (b) an urgent response to satisfy basic needs and provide services, including social protection, support to livelihoods, immediate employment measures and income-generation opportunities for population groups and individuals who have been made particularly vulnerable by the crisis;
  - (c) assistance, provided to the extent possible by public authorities with the support of the international community, engaging social partners and, where appropriate, relevant civil society and community-based organizations;
  - (d) safe and decent working conditions, including the provision of personal protective equipment and medical assistance for all workers, including those engaged in rescue and rehabilitation activities; and
  - (e) the re-establishment, whenever necessary, of government institutions and of employers' and workers' organizations, as well as of relevant civil society organizations.

#### **IV. Employment and income-generation opportunities**

10. In enabling recovery and building resilience, Members should adopt and implement a comprehensive and sustainable employment strategy to promote full, productive, freely chosen employment and decent work for women and men, taking into account the Employment Policy Convention, 1964 (No.122), and guidance provided in relevant resolutions of the International Labour Conference.

11. Members should, in consultation with the most representative employers' and workers' organizations, adopt inclusive measures in order to promote full, productive, freely chosen employment and decent work and income-generation opportunities through, as appropriate:

- (a) employment-intensive investment strategies and programmes, including public employment programmes;
- (b) local economic recovery and development initiatives, with a special focus on livelihoods in both rural and urban areas;
- (c) the creation or restoration of an enabling environment for sustainable enterprises, including the promotion of small and medium-sized enterprises as well as of cooperatives and other social economy initiatives, with particular emphasis on initiatives to facilitate access to finance;
- (d) supporting sustainable enterprises to ensure business continuity in order to maintain and expand the level of employment and enable the creation of new jobs and income-generation opportunities;
- (e) facilitating a just transition towards an environmentally sustainable economy as a means for sustainable economic growth and social progress, and for creating new jobs and income-generation opportunities;
- (f) supporting social protection and employment and respecting, promoting and realizing the fundamental principles and rights at work of those in the informal economy and encouraging the transition of workers and economic units in the informal economy to the formal economy, taking into account the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204);
- (g) supporting the public sector and promoting socially, economically and environmentally responsible public-private partnerships and other mechanisms for skills and capacity development and employment generation;
- (h) creating incentives for multinational enterprises to cooperate with national enterprises in order to create productive, freely chosen employment and decent work and to undertake human rights due diligence with a view to ensuring respect for human and labour rights, taking into account the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; and
- (i) facilitating the employment of persons formerly associated with armed forces and groups, as appropriate.

12. Members should develop and apply active labour market policies and programmes with a particular focus on disadvantaged and marginalized groups and population groups and individuals who have been made particularly vulnerable by a crisis, including,

but not limited to, persons with disabilities, internally displaced persons, migrants and refugees, as appropriate and in accordance with national laws and regulations.

13. In responding to crisis situations, Members should seek to provide income-generation opportunities, stable employment and decent work for young women and men, including through:

- (a) integrated training, employment and labour market programmes that address the specific situations of young persons entering the world of work; and
- (b) specific youth employment components in disarmament, demobilization and reintegration programmes that incorporate psychosocial counselling and other interventions to address anti-social behaviour and violence, with a view to reintegration into civilian life.

14. In the event of a crisis resulting in large numbers of internally displaced persons, Members should:

- (a) support the livelihoods, training and employment of internally displaced persons, with a view to promoting their socio-economic and labour market integration;
- (b) build resilience and strengthen the capacity of host communities to promote decent employment opportunities for all, with a view to ensuring that the livelihoods and employment of local populations are maintained and their ability to host internally displaced persons is strengthened; and
- (c) facilitate the voluntary return of internally displaced persons to their places of origin and their reintegration into labour markets when the situation allows it.

#### **V. Rights, equality and non-discrimination**

15. In responding to discrimination arising from or exacerbated by conflicts or disasters and when taking measures for promoting peace, preventing crises, enabling recovery and building resilience, Members should:

- (a) respect, promote and realize equality of opportunity and treatment for women and men without discrimination of any kind, taking into account the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951, and the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958;
- (b) pay special attention to single-headed households, in particular when they are

- headed by children, women, persons with disabilities or elderly persons;
- (c) take measures to ensure that women who have been employed during a crisis and have assumed expanded responsibilities are not replaced against their will when the male workforce returns;
  - (d) take measures to ensure that women are empowered to effectively and meaningfully participate in decision-making processes in the context of recovery and building resilience, and that their needs and interests are prioritized in strategies and responses, and that the human rights of women and girls are promoted and protected;
  - (e) prevent and punish all forms of gender-based violence, including rape, sexual exploitation and harassment, and protect and support victims;
  - (f) pay particular attention to establishing or restoring conditions of stability and socio-economic development for population groups that have been particularly affected by a crisis, including, but not limited to, persons belonging to minorities, indigenous and tribal peoples, internally displaced persons, persons with disabilities, migrants and refugees, taking into account the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958, as well as other relevant international labour standards and other international instruments and documents, as applicable;
  - (g) ensure that persons belonging to minorities concerned, and indigenous and tribal peoples are consulted, in particular through their representative institutions, where they exist, and participate directly in the decision-making process, especially if the territories inhabited or used by indigenous and tribal peoples and their environment are affected by a crisis and related recovery and stability measures;
  - (h) ensure, in consultation with employers' and workers' organizations, that persons with disabilities, including those who acquired a disability as a result of conflict or disaster, are provided with opportunities for rehabilitation, education, specialized vocational guidance, training and retraining, and employment, taking into account relevant international labour standards and other international instruments and documents; and
  - (i) ensure that the human rights of all migrants and members of their families staying in a country affected by a crisis are respected on a basis of equality with those

of national populations, taking into account relevant national provisions, as well as relevant international labour standards and other international instruments and documents, as applicable.

16. In combating child labour arising from or exacerbated by conflicts or disasters, Members should:
- (a) take all necessary measures to prevent, identify and eliminate child labour in crisis responses, taking into account the Minimum Age Convention (No. 138) and Recommendation (No. 146), 1973;
  - (b) take urgent action to prevent, identify and eliminate the worst forms of child labour, including the trafficking of children and the recruitment of children for use in armed conflict, taking into account the Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), 1999;
  - (c) provide rehabilitation, social integration and training programmes for children and young persons formerly associated with armed forces and groups to help them readjust to civilian life; and
  - (d) ensure the provision of social protection services to protect children, for instance through cash or in-kind transfers.
17. In combating forced or compulsory labour arising from or exacerbated by conflicts or disasters, Members should take urgent action to prevent, identify and eliminate all forms of forced or compulsory labour, including trafficking in persons for purposes of forced or compulsory labour, taking into account the Forced Labour Convention, 1930 (No. 29) and its Protocol of 2014, the Abolition of Forced Labour Convention, 1957 (No. 105), and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203).

#### **VI. Education, vocational training and guidance**

18. In preventing and responding to crisis situations, and on the basis of the principle of equal opportunity and treatment for women and men, girls and boys, Members should ensure that:
- (a) the provision of education is not disrupted, or is restored as quickly as possible, and that children, including those who are internally displaced, migrants or refugees, have access to free, quality, public education, including with the support of international aid, in accordance with relevant international law and without discrimination of any kind at all stages of crisis and recovery; and

(b) second chance programmes for children and young persons are available and address key needs arising from any interruption of their education and training.

19. In preventing and responding to crisis situations, Members should, where appropriate:

- (a) formulate or adapt a national education, training, retraining and vocational guidance programme that assesses and responds to emerging skills needs for recovery and reconstruction, in consultation with education and training institutions and employers' and workers' organizations, engaging fully all relevant public and private stakeholders;
- (b) adapt curricula and train teachers and instructors to promote:
  - (i) peaceful coexistence and reconciliation for peacebuilding and resilience; and
  - (ii) disaster risk education, reduction, awareness and management for recovery, reconstruction and resilience;
- (c) coordinate education, training and retraining services at national, regional and local levels, including higher education, apprenticeship, vocational training and entrepreneurship training, and enable women and men whose education and training have been prevented or interrupted to enter or resume and complete their education and training;
- (d) extend and adapt training and retraining programmes to meet the needs of all persons whose employment has been interrupted; and
- (e) give special attention to the training and economic empowerment of affected populations, including in rural areas and in the informal economy.

20. Members should ensure that women and girls have access, on the basis of equal opportunity and treatment, to all education and training programmes developed for recovery and resilience.

#### **VII. Social protection**

21. In responding to crisis situations, Members should, as quickly as possible:

- (a) seek to ensure basic income security, in particular for persons whose jobs or livelihoods have been disrupted by the crisis;
- (b) develop, restore or enhance comprehensive social security schemes and other social protection mechanisms, taking into account national legislation and international agreements; and

(c) seek to ensure effective access to essential health care and other basic social services, in particular for population groups and individuals who have been made particularly vulnerable by the crisis.

22. In order to prevent crises, enable recovery and build resilience, Members should establish, re-establish or maintain social protection floors, as well as seek to close the gaps in their coverage, taking into account the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Social Protection Floors Recommendation, 2012 (No. 202), and other relevant international labour standards.

#### **VIII. Labour law, labour administration and labour market information**

23. In recovering from crisis situations, Members should, in consultation with the most representative employers' and workers' organizations:

- (a) review, establish, re-establish or reinforce labour legislation, if necessary, including provisions on labour protection and occupational safety and health at work, consistent with the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) and applicable international labour standards;
- (b) ensure that labour laws support the generation of productive, freely chosen employment and decent work opportunities;
- (c) establish, re-establish or reinforce, as necessary, the system of labour administration, including labour inspection and other competent institutions, taking into account the Labour Inspection Convention, 1947 (No. 81), as well as the system of collective bargaining and collective agreements, taking into account the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- (d) establish, restore or enhance, as necessary, systems for the collection and analysis of labour market information, focusing in particular on population groups most affected by the crisis;
- (e) establish or restore and strengthen public employment services, including emergency employment services;
- (f) ensure the regulation of private employment agencies, taking into account the Private Employment Agencies Convention, 1997 (No. 181); and
- (g) promote synergies among all labour market actors to enable local populations to obtain the maximum benefit from employment opportunities generated by

investments related to the promotion of peace and recovery.

#### **IX. Social dialogue and role of employers' and workers' organizations**

24. In responding to crisis situations, Members should, in consultation with the most representative employers' and workers' organizations:

- (a) ensure that all measures provided for in this Recommendation are developed or promoted through gender-inclusive social dialogue, taking into account the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144);
- (b) create an enabling environment for the establishment, restoration or strengthening of employers' and workers' organizations; and
- (c) encourage, where appropriate, close co-operation with civil society organizations.

25. Members should recognize the vital role of employers' and workers' organizations in crisis response, taking into account the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and in particular:

- (a) assist sustainable enterprises, particularly small and medium-sized enterprises, to undertake business continuity planning to recover from crises by means of training, advice and material support, and facilitate access to finance;
- (b) assist workers, in particular those who have been made vulnerable by the crisis, to recover from the crisis through training, advice and material support; and
- (c) take measures for these purposes through the collective bargaining process as well as by other methods of social dialogue.

#### **X. Migrants affected by crisis situations**

26. Taking into account that special attention should be given to migrants, especially migrant workers, who have been made particularly vulnerable by crisis, Members should take measures, in accordance with national law and applicable international law, to:

- (a) eliminate forced or compulsory labour, including trafficking in persons;
- (b) promote, as appropriate, the inclusion of migrants in host societies, through access to labour markets, including entrepreneurship and income-generation opportunities, and through decent work;

(c) protect and seek to ensure labour rights and a safe environment for migrant workers, including those in precarious employment, women migrant workers, youth migrant workers and migrant workers with disabilities, in all sectors;

(d) give due consideration to migrant workers and their families in shaping labour policies and programmes dealing with responses to conflicts and disasters, as appropriate; and

(e) facilitate the voluntary return of migrants and their families in conditions of safety and dignity.

27. Consistent with the guidance provided in Parts V, VIII and IX, Members should promote equality of opportunity and treatment for all migrant workers with regard to fundamental principles and rights at work, and coverage under relevant national labour laws and regulations, and in particular:

(a) educate migrants about their labour rights and protections, including by providing information on the rights and obligations of workers and the means of redress for violations, in a language they understand;

(b) enable the participation of migrants in representative organizations of employers and workers;

(c) adopt measures and facilitate campaigns that combat discrimination and xenophobia in the workplace and highlight the positive contributions of migrants, with the active engagement of employers' and workers' organizations and of civil society; and

(d) consult and engage employers' and workers' organizations and, as appropriate, other relevant civil society organizations, with respect to employment of migrants.

#### **XI. Refugees and returnees**

##### **REFUGEE ACCESS TO LABOUR MARKETS**

28. Any measures taken under this Part, in the event of refugee influx, are contingent on:

(a) national and regional circumstances, taking into account applicable international law, fundamental principles and rights at work and national legislation; and

(b) Members' challenges and constraints in terms of their resources and capacity to respond effectively, taking into account needs as well as priorities expressed by the most representative organizations of employers and workers.

29. Members should acknowledge the vital importance of equitable burden- and

responsibility-sharing. They should reinforce international cooperation and solidarity so as to provide predictable, sustainable and adequate humanitarian and development assistance to support the least developed and developing countries hosting large numbers of refugees, including in terms of addressing the implications for their labour markets and ensuring their continued development.

30. Members should take measures, as appropriate, to:

- (a) foster self-reliance by expanding opportunities for refugees to access livelihood opportunities and labour markets, without discriminating among refugees and in a manner which also supports host communities; and
- (b) formulate national policy and national action plans, involving competent authorities responsible for employment and labour and in consultation with employers' and workers' organizations, to ensure the protection of refugees in the labour market, including with regard to access to decent work and livelihood opportunities.

31. Members should collect reliable information to assess the impact of refugees on labour markets and the needs of the existing labour force and of employers, in order to optimize the use of skills and human capital that refugees represent.

32. Members should build the resilience and strengthen the capacity of host communities by investing in local economies and promoting full, productive, freely chosen employment and decent work, and skills development of the local population.

33. Consistent with the guidance provided in Parts IV, VI and VII, Members should include refugees in the actions taken with respect to employment, training and labour market access, as appropriate, and in particular:

- (a) promote their access to technical and vocational training, in particular through ILO and relevant stakeholder programmes, in order to enhance their skills and enable them to undergo further retraining, taking into account possible voluntary repatriation;
- (b) promote their access to formal job opportunities, income-generation schemes and entrepreneurship, by providing vocational training and guidance, job placement assistance, and access to work permits, as appropriate, thereby preventing informalization of labour markets in host communities;

- (c) facilitate the recognition, certification, accreditation and use of skills and qualifications of refugees through appropriate mechanisms, and provide access to tailored training and retraining opportunities, including intensive language training;
- (d) enhance the capacity of public employment services and improve cooperation with other providers of services, including private employment agencies, to support the access of refugees to the labour market;
- (e) make specific efforts to support the inclusion in labour markets of refugee women, young persons and others who are in a situation of vulnerability; and
- (f) facilitate, as appropriate, the portability of work-related and social security benefit entitlements, including pensions, in accordance with the national provisions of the host country.

34. Consistent with the guidance provided in Parts V, VIII and IX, Members should promote equality of opportunity and treatment for refugees with regard to fundamental principles and rights at work and coverage under relevant labour laws and regulations, and in particular:

- (a) educate refugees about their labour rights and protections, including by providing information on the rights and obligations of workers and the means of redress for violations, in a language they understand;
- (b) enable the participation of refugees in representative organizations of employers and workers; and
- (c) adopt appropriate measures, including legislative measures and campaigns, that combat discrimination and xenophobia in the workplace and highlight the positive contributions of refugees, with the active engagement of employers' and workers' organizations and of civil society.

35. Members should consult and engage employers' and workers' organizations and other relevant stakeholders with respect to the access of refugees to labour markets.

36. Members should support host countries to strengthen their capacity and build resilience, including through development assistance, by investing in local communities.

#### VOLUNTARY REPATRIATION AND REINTEGRATION OF RETURNEES

37. When the security situation in the country of origin of refugees has improved sufficiently, Members should collaborate to facilitate the voluntary repatriation of refugees in conditions

of safety and dignity, and to support their labour market reintegration, including with the assistance of international organizations.

38. Members should collaborate with the ILO and relevant stakeholders to develop specific programmes for returnees to facilitate their vocational training and reintegration in the labour market.

39. Members should collaborate, including with the assistance of relevant international organizations, to support the socio-economic integration of returnees in their countries of origin, through measures set out in Parts IV to IX, as appropriate, in a manner which supports the economic and social development of local populations.

40. Taking into account the principle of burden- and responsibility sharing, Members should support countries of origin to strengthen their capacity and build resilience, including through development assistance, by investing in local communities in which returnees are reintegrated and by promoting full, productive, freely chosen employment and decent work.

## **XII. Prevention, mitigation and preparedness**

41. Members should take measures, in particular in countries in which there are foreseeable risks of conflict or disaster, to build resilience, in consultation with employers' and workers' organizations and other stakeholders, to prevent, mitigate and prepare for crises in ways that support economic and social development and decent work, through actions such as:

- (a) identification of risks and evaluation of threats to and vulnerabilities of human, physical, economic, environmental, institutional and social capital at local, national and regional levels;
- (b) risk management, including contingency planning, early warning, risk reduction and emergency response preparedness; and
- (c) prevention and mitigation of adverse effects, including through business continuity management in both the public and the private sector, taking into account the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998).

## **XIII. International cooperation**

42. In preparing for and responding to crisis situations, Members should strengthen cooperation and take appropriate steps through bilateral or multilateral arrangements, including through the United Nations system, international financial institutions and other regional or international mechanisms of coordinated response. Members should make full use of existing arrangements and established institutions and mechanisms and strengthen them, as appropriate.

43. Crisis responses, including support by regional and international organizations, should provide for a central focus on employment, decent work and sustainable enterprises, and should be consistent with applicable international labour standards.

44. Members should cooperate to promote development assistance and public and private sector investment in crisis response for the creation of decent and productive jobs, business development and self-employment.

45. International organizations should reinforce their cooperation and the coherence of their crisis responses within their respective mandates, making full use of relevant international policy frameworks and arrangements.

46. The ILO should play a leading role in assisting Members to provide crisis responses based on employment and decent work and focusing on employment promotion, labour market integration or access, as appropriate, capacity development and institution building, in close cooperation with regional and international institutions.

47. Members should strengthen international cooperation, including through the voluntary and systematic exchange of information, knowledge, good practices and technology for promoting peace, preventing and mitigating crises, enabling recovery and building resilience.

48. There should be close coordination of and complementarity among crisis responses, as appropriate, in particular between humanitarian and development assistance, for the promotion of full, productive, freely chosen employment and decent work for peace and resilience.

## **XIV. Final provision**

49. This Recommendation supersedes the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71).

## ILO Constitution, Declarations and Resolutions

### ILO Constitution, 1919

#### Preamble

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

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

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

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

#### Chapter I – Organization

##### Article 1

###### ESTABLISHMENT

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

###### MEMBERSHIP

2. The Members of the International Labour Organization shall be the States which were Members of the Organization on 1 November 1945 and such other States as may become Members in pursuance of the provisions of paragraphs 3 and 4 of this article.

3. Any original member of the United Nations and any State admitted to membership of the united nations by a decision of the general assembly in accordance with the provisions of the charter may become a member of the International Labour Organization by communicating to the director-general of the international labour office its formal acceptance of the obligations of the constitution of the International Labour Organization.

4. The General Conference of the International Labour Organization may also admit Members to the Organization by a vote concurred in by two-thirds of the delegates attending the session, including two-thirds of the Government delegates present and voting. Such admission shall take effect on the communication to the Director-General of the International Labour Office by the government of the new Member of its formal acceptance of the obligations of the Constitution of the Organization.

###### WITHDRAWAL

5. No Member of the International Labour Organization may withdraw from the Organization without giving notice of its intention so to do to the Director-General of the International Labour Office. Such notice shall take effect two years after the date of its reception by the Director-General, subject to the Member having at that time fulfilled all financial obligations arising out of its membership. When a Member has ratified any international labour Convention, such withdrawal shall not affect the continued validity for the period provided for in the Convention of all obligations arising thereunder or relating thereto.

###### READMISSION

6. In the event of any State having ceased to be a Member of the Organization, its readmission to membership shall be governed

by the provisions of paragraph 3 or paragraph 4 of this article as the case may be.

### **Article 2**

#### **ORGANS**

The permanent organization shall consist of:

- (a) a General Conference of representatives of the Members;
- (b) a Governing Body composed as described in article 7; and
- (c) an International Labour Office controlled by the Governing Body.

### **Article 3** **Conference**

#### **MEETINGS AND DELEGATES**

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

#### **ADVISERS**

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

#### **ADVISERS FROM NON-METROPOLITAN TERRITORIES**

3. Each Member which is responsible for the international relations of non-metropolitan territories may appoint as additional advisers to each of its delegates

- (a) persons nominated by it as representatives of any such territory in regard to matters within the self-governing powers of that territory; and
- (b) persons nominated by it to advise its delegates in regard to matters concerning non-self-governing territories.

4. In the case of a territory under the joint authority of two or more Members, persons may be nominated to advise the delegates of such Members.

#### **NOMINATION OF NON-GOVERNMENTAL REPRESENTATIVES**

5. The Members undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most

representative of employers or workpeople, as the case may be, in their respective countries.

#### **STATUS OF ADVISERS**

6. Advisers shall not speak except on a request made by the delegate whom they accompany and by the special authorization of the President of the Conference, and may not vote.

7. A delegate may by notice in writing addressed to the President appoint one of his advisers to act as his deputy, and the adviser while so acting, shall be allowed to speak and vote.

#### **CREDENTIALS**

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

9. The credentials of delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by the delegates present, refuse to admit any delegate or adviser whom it deems not to have been nominated in accordance with this article.

### **Article 4** **Voting rights**

1. Every delegate shall be entitled to vote individually on all matters which are taken into consideration by the Conference.

2. If one of the Members fails to nominate one of the non-Government delegates whom it is entitled to nominate, the other non-Government delegate shall be allowed to sit and speak at the Conference, but not to vote.

3. If in accordance with article 3 the Conference refuses admission to a delegate of one of the Members, the provisions of the present article shall apply as if that delegate had not been nominated.

### **Article 5** **Place of meetings of the Conference**

The meetings of the Conference shall, subject to any decisions which may have been taken by the Conference itself at a previous meeting be held at such place as may be decided by the Governing Body.

### **Article 6** **Seat of the International Labour Office**

Any change in the seat of the International Labour Office shall be decided by the Conference by a two-thirds majority of the votes cast by the delegates present.

**Article 7**  
**Governing Body**

**COMPOSITION**

1. The Governing Body shall consist of fifty-six persons  
Twenty-eight representing governments,  
Fourteen representing the employers, and  
Fourteen representing the workers.

**GOVERNMENT REPRESENTATIVES**

2. Of the twenty-eight persons representing governments, ten shall be appointed by the Members of chief industrial importance, and eighteen shall be appointed by the Members selected for that purpose by the Government delegates to the Conference, excluding the delegates of the ten Members mentioned above.

**STATES OF CHIEF INDUSTRIAL  
IMPORTANCE**

3. The Governing Body shall as occasion requires determine which are the Members of the Organization of chief industrial importance and shall make rules to ensure that all questions relating to the selection of the Members of chief industrial importance are considered by an impartial committee before being decided by the Governing Body. Any appeal made by a Member from the declaration of the Governing Body as to which are the Members of chief industrial importance shall be decided by the Conference, but an appeal to the Conference shall not suspend the application of the declaration until such time as the Conference decides the appeal.

**EMPLOYERS' AND WORKERS'  
REPRESENTATIVES**

4. The persons representing the employers and the persons representing the workers shall be elected respectively by the Employers' delegates and the Workers' delegates to the Conference.

**TERM OF OFFICE**

5. The period of office of the Governing Body shall be three years. If for any reason the Governing Body elections do not take place on the expiry of this period, the Governing Body shall remain in office until such elections are held.

**VACANCIES, SUBSTITUTES, ETC.**

6. The method of filling vacancies and of appointing substitutes and other similar questions may be decided by the Governing Body subject to the approval of the Conference.

**OFFICERS**

7. The Governing Body shall, from time to time, elect from its number a chairman and two vice-chairmen, of whom one shall be a person representing a government, one a person representing the employers, and one a person representing the workers.

**PROCEDURE**

8. The Governing Body shall regulate its own procedure and shall fix its own times of meeting. A special meeting shall be held if a written request to that effect is made by at least sixteen of the representatives on the Governing Body.

**Article 8**  
**Director-General**

1. There shall be a Director-General of the International Labour Office, who shall be appointed by the Governing Body, and, subject to the instructions of the Governing Body, shall be responsible for the efficient conduct of the International Labour Office and for such other duties as may be assigned to him.
2. The Director-General or his deputy shall attend all meetings of the Governing Body.

**Article 9**  
**Staff**

**APPOINTMENT**

1. The staff of the International Labour Office shall be appointed by the Director-General under regulations approved by the Governing Body.
2. So far as is possible with due regard to the efficiency of the work of the Office, the Director-General shall select persons of different nationalities.
3. A certain number of these persons shall be women.

**INTERNATIONAL CHARACTER  
OF RESPONSIBILITIES**

4. The responsibilities of the Director-General and the staff shall be exclusively international in character. In the performance of their duties, the Director-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
5. Each Member of the Organization undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to

seek to influence them in the discharge of their responsibilities.

**Article 10**  
**Functions of the Office**

1. The functions of the International Labour Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour, and particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international Conventions, and the conduct of such special investigations as may be ordered by the Conference or by the Governing Body.

2. Subject to such directions as the Governing Body may give, the

- (a) prepare the documents on the various items of the agenda for the meetings of the Conference;
  - (b) accord to governments at their request all appropriate assistance within its power in connection with the framing of laws and regulations on the basis of the decisions of the Conference and the improvement of administrative practices and systems of inspection;
  - (c) carry out the duties required of it by the provisions of this Constitution in connection with the effective observance of Conventions;
  - (d) edit and issue, in such languages as the Governing Body may think desirable, publications dealing with problems of industry and employment of international interest.
3. Generally, it shall have such other powers and duties as may be assigned to it by the Conference or by the Governing Body.

**Article 11**  
**Relations with governments**

The government departments of any of the Members which deal with questions of industry and employment may communicate directly with the Director-General through the representative of their government on the Governing Body of the International Labour Office or, failing any such representative, through such other qualified official as the government may nominate for the purpose.

**Article 12**  
**Relations with international organizations**

1. The International Labour Organization shall co-operate within the terms of this Constitution with any general international organization entrusted with the co-ordination of the activities

of public international organizations having specialized responsibilities and with public international organizations having specialized responsibilities in related fields.

2. The International Labour Organization may make appropriate arrangements for the representatives of public international organizations to participate without vote in its deliberations.

3. The International Labour Organization may make suitable arrangements for such consultation as it may think desirable with recognized non-governmental international organizations, including international organizations of employers, workers, agriculturists and co-operators.

**Article 13**  
**Financial and budgetary arrangements**

1. The International Labour Organization may make such financial and budgetary arrangements with the United Nations as may appear appropriate.

2. Pending the conclusion of such arrangements or if at any time no such arrangements are in force:

- (a) each of the Members will pay the travelling and subsistence expenses of its delegates and their advisers and of its representatives attending the meetings of the Conference or the Governing Body, as the case may be;
- (b) all other expenses of the International Labour Office and of the meetings of the Conference or Governing Body shall be paid by the Director-General of the International Labour Office out of the general funds of the International Labour Organization;
- (c) the arrangements for the approval, allocation and collection of the budget of the International Labour Organization shall be determined by the Conference by a two-thirds majority of the votes cast by the delegates present, and shall provide for the approval of the budget and of the arrangements for the allocation of expenses among the Members of the Organization by a committee of Government representatives.

3. The expenses of the International Labour Organization shall be borne by the Members in accordance with the arrangements in force in virtue of paragraph 1 or paragraph 2 (c) of this article.

**ARREARS IN PAYMENT  
OF CONTRIBUTIONS**

4. A Member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Conference, in the Governing Body, in any committee, or in the elections of members of the Governing Body, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years: Provided that the Conference may by a two-thirds majority of the votes cast by the delegates present permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

**FINANCIAL RESPONSIBILITY  
Of DIRECTOR-GENERAL**

5. The Director-General of the International Labour Office shall be responsible to the Governing Body for the proper expenditure of the funds of the International Labour Organization.

**Chapter II – Procedure**

**Article 14**

**AGENDA FOR CONFERENCE**

1. The agenda for all meetings of the Conference will be settled by the Governing Body, which shall consider any suggestion as to the agenda that may be made by the government of any of the Members or by any representative organization recognized for the purpose of article 3, or by any public international organization.

**PREPARATION FOR CONFERENCE**

2. The Governing Body shall make rules to ensure thorough technical preparation and adequate consultation of the Members primarily concerned, by means of a preparatory conference or otherwise, prior to the adoption of a Convention or Recommendation by the Conference.

**Article 15**

**Transmission of agenda  
and reports for Conference**

1. The Director-General shall act as the Secretary-General of the Conference, and shall transmit the agenda so as to reach the Members four months before the meeting of the Conference, and, through them, the non-Government delegates when appointed.

**GOVERNMENT REPRESENTATIVES**

2. The reports on each item of the agenda shall be despatched so as to reach the Members in time to permit adequate consideration before the meeting of the

Conference. The Governing Body shall make rules for the application of this provision.

**Article 16**

**Objections to agenda**

1. Any of the governments of the Members may formally object to the inclusion of any item or items in the agenda. The grounds for such objection shall be set forth in a statement addressed to the Director-General who shall circulate it to all the Members of the Organization.

2. Items to which such objection has been made shall not, however be excluded from the agenda, if at the Conference a majority of two-thirds of the votes cast by the delegates present is in favour of considering them.

**INCLUSION OF NEW ITEMS  
BY CONFERENCE**

3. If the Conference decides (otherwise than under the preceding paragraph) by two-thirds of the votes cast by the delegates present that any subject shall be considered by the Conference, that subject shall be included in the agenda for the following meeting.

**Article 17**

**Officers of Conference, procedure  
and committees**

1. The Conference shall elect a president and three vice-presidents. One of the vice-presidents shall be a Government delegate, one an Employers' delegate and one a Workers' delegate. The Conference shall regulate its own procedure and may appoint committees to consider and report on any matter.

**VOTING**

2. Except as otherwise expressly provided in this Constitution or by the terms of any Convention or other instrument conferring powers on the Conference or of the financial and budgetary arrangements adopted in virtue of article 13, all matters shall be decided by a simple majority of the votes cast by the delegates present.

**QUORUM**

3. The voting is void unless the total number of votes cast is equal to half the number of the delegates attending the Conference.

**Article 18**

**Technical experts**

The Conference may add to any committees which it appoints technical experts without power to vote.

### **Article 19**

#### **Conventions and Recommendations**

##### **DECISIONS OF THE CONFERENCE**

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of an international Convention, or (b) of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.

##### **VOTE REQUIRED**

2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

##### **MODIFICATIONS FOR SPECIAL LOCAL CONDITIONS**

3. In framing any Convention or Recommendation of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

##### **AUTHENTIC TEXTS**

4. Two copies of the Convention or Recommendation shall be authenticated by the signatures of the President of the Conference and of the Director-General. Of these copies one shall be deposited in the archives of the International Labour Office and the other with the Secretary-General of the United Nations. The Director-General will communicate a certified copy of the Convention or Recommendation to each of the Members.

##### **OBLIGATIONS OF MEMBERS IN RESPECT OF CONVENTIONS**

5. In the case of a Convention

- (a) the Convention will be communicated to all Members for ratification;
- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or

authorities within whose competence the matter lies, for the enactment of legislation or other action;

- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;
- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention;
- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

##### **OBLIGATIONS OF MEMBERS IN RESPECT OF RECOMMENDATIONS**

6. In the case of a Recommendation-
- (a) the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;
  - (b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;
  - (c) the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation

before the said competent authority or authorities with particulars of the authority or authorities regarded as competent, and of the action taken by them;

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

#### OBLIGATIONS OF FEDERAL STATES

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system in whole or in part, for action by the constituent states provinces, or cantons rather than for federal action, the federal government shall:
- (i) make, in accordance with its Constitution and the Constitutions of the states, provinces or cantons concerned, effective arrangements for the reference of such Conventions and Recommendations not later than 18 months from the closing of the session of the Conference to the appropriate federal, state provincial or cantonal authorities for the enactment of legislation or other action;
- (ii) arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal and the state, provincial or cantonal authorities with a view to promoting within the federal State co-ordinated action to give effect to the provisions

of such Conventions and Recommendations;

- (iii) inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring such Conventions and Recommendations before the appropriate federal state, provincial or cantonal authorities with particulars of the authorities regarded as appropriate and of the action taken by them;
- (iv) in respect of each such Convention which it has not ratified report to the Director-General of the International Labour Office at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;
- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

#### EFFECT OF CONVENTIONS AND RECOMMENDATIONS ON MORE FAVOURABLE EXISTING PROVISIONS

8. In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation.

#### ABROGATION OF OBSOLETE CONVENTIONS

9. Acting on a proposal of the Governing Body, the Conference may, by a majority of two-thirds of the votes cast by the delegates present, abrogate any Convention adopted in

accordance with the provisions of this article if it appears that the Convention has lost its purpose or that it no longer makes a useful contribution to attaining the objectives of the Organisation.

**Article 20**  
**Registration with the United Nations**

1. Any Convention so ratified shall be communicated by the Director-General of the International Labour Office to the Secretary-General of the United Nations for registration in accordance with the provisions of article 102 of the Charter of the United Nations but shall only be binding upon the Members which ratify it.

**Article 21**  
**Conventions not adopted by the Conference**

1. If any Convention coming before the Conference for final consideration fails to secure the support of two-thirds of the votes cast by the delegates present, it shall nevertheless be within the right of any of the Members of the Organization to agree to such Convention among themselves.

2. Any Convention so agreed to shall be communicated by the governments concerned to the Director-General of the International Labour Office and to the Secretary-General of the United Nations for registration in accordance with the provisions of article 102 of the Charter of the United Nations.

**Article 22**  
**Annual reports on ratified Conventions**

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

**Article 23**  
**Examination and communication of reports**

1. The Director-General shall lay before the next meeting of the Conference a summary of the information and reports communicated to him by Members in pursuance of articles 19 and 22.

2. Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

**Article 24**  
**Representations of non-observance of Conventions**

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

**Article 25**  
**Publication of representation**

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

**Article 26**  
**Complaints of non-observance**

1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.

2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.

3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.

4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.

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

considered shall be given to the government in question.

**Article 27**

**Co-operation with Commission of Inquiry**

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

**Article 28**

**Report of Commission of Inquiry**

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

**Article 29**

**Action on report of Commission of Inquiry**

1. The Director-General of the International Labour Office shall communicate the report of the Commission of Inquiry to the Governing Body and to each of the governments concerned in the complaint, and shall cause it to be published.

2. Each of these governments shall within three months inform the Director-General of the International Labour Office whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the International Court of Justice.

**Article 30**

**Failure to submit Conventions or Recommendations to competent authorities**

1. In the event of any Member failing to take the action required by paragraphs 5 (b), 6 (b) or 7 (b) (i) of article 19 with regard to a Convention or Recommendation, any other Member shall be entitled to refer the matter to the Governing Body. In the event of the Governing Body finding that there has been such a failure, it shall report the matter to the Conference.

**Article 31**

**Decisions of International Court of Justice**

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

**Article 32**

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

**Article 33**

**FAILURE TO CARRY OUT RECOMMENDATIONS OF COMMISSION OF INQUIRY OR ICJ**

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

**Article 34**

**COMPLIANCE WITH RECOMMENDATIONS OF COMMISSION OF INQUIRY OR ICJ**

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

**Chapter III – GENERAL**

**Article 35**

**Application of Conventions to non-metropolitan territories**

1. The Members undertake that Conventions which they have ratified in accordance with the provisions of this Constitution shall be applied to the non-metropolitan territories for whose international relations they are responsible, including any trust territories for which they are the administering authority, except where the subject-matter of the Convention is within the self-governing powers of the territory or the Convention is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions.

2. Each Member which ratifies a Convention shall as soon as possible after ratification communicate to the Director-General of the

International Labour Office a declaration stating in respect of the territories other than those referred to in paragraphs 4 and 5 below the extent to which it undertakes that the provisions of the Convention shall be applied and giving such particulars as may be prescribed by the Convention.

3. Each Member which has communicated a declaration in virtue of the preceding paragraph may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration and stating the present position in respect of such territories.

4. Where the subject-matter of the Convention is within the self-governing powers of any non-metropolitan territory the Member responsible for the international relations of that territory shall bring the Convention to the notice of the government of the territory as soon as possible with a view to the enactment of legislation or other action by such government. Thereafter the Member, in agreement with the government of the territory, may communicate to the Director-General of the International Labour Office a declaration accepting the obligations of the Convention on behalf of such territory.

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

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

6. Acceptance of the obligations of a Convention in virtue of paragraph 4 or paragraph 5 shall involve the acceptance on behalf of the territory concerned of the obligations stipulated by the terms of the Convention and the obligations under the Constitution of the Organization which apply to ratified Conventions. A declaration of acceptance may specify such modification of the provisions of the Conventions as may be necessary to adapt the Convention to local conditions.

7. Each Member or international authority which has communicated a declaration in virtue of paragraph 4 or paragraph 5 of this article may from time to time, in accordance with the terms of the Convention, communicate a further declaration modifying the terms of any former declaration or

terminating the acceptance of the obligations of the Convention on behalf of the territory concerned.

8. If the obligations of a Convention are not accepted on behalf of a territory to which paragraph 4 or paragraph 5 of this article relates, the Member or Members or international authority concerned shall report to the Director-General of the International Labour Office the position of the law and practice of that territory in regard to the matters dealt with in the Convention and the report shall show the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and shall state the difficulties which prevent or delay the acceptance of such Convention.

### **Article 36**

#### ***Amendments to Constitution***

1. Amendments to this Constitution which are adopted by the Conference by a majority of two-thirds of the votes cast by the delegates present shall take effect when ratified or accepted by two-thirds of the Members of the Organization including five of the ten Members which are represented on the Governing Body as Members of chief industrial importance in accordance with the provisions of paragraph 3 of article 7 of this Constitution.

### **Article 37**

#### ***Interpretation of Constitution and Conventions***

1. Any question or dispute relating to the interpretation of this Constitution or of any subsequent Convention concluded by the Members in pursuance of the provisions of this Constitution shall be referred for decision to the International Court of Justice.

2. Notwithstanding the provisions of paragraph 1 of this article the Governing Body may make and submit to the Conference for approval rules providing for the appointment of a tribunal for the expeditious determination of any dispute or question relating to the interpretation of a Convention which may be referred thereto by the Governing Body or in accordance with the terms of the Convention. Any applicable judgement or advisory opinion of the International Court of Justice shall be binding upon any tribunal established in virtue of this paragraph. Any award made by such a tribunal shall be circulated to the Members of the Organization and any observations which they may make thereon shall be brought before the Conference.

**Article 38**  
**Regional Conferences**

1. The International Labour Organization may convene such regional conferences and establish such regional agencies as may be desirable to promote the aims and purposes of the Organization.
2. The powers, functions and procedure of regional conferences shall be governed by rules drawn up by the Governing Body and submitted to the General Conference for confirmation.

**Chapter IV – Miscellaneous provisions**

**Article 39**  
**Legal status of Organization**

The International Labour Organization shall possess full juridical personality and in particular the capacity:

- (a) to contract;

- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

**Article 40**  
**Privileges and immunities**

1. The International Labour Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
2. Delegates to the Conference, members of the Governing Body and the Director-General and officials of the Office shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. Such privileges and immunities shall be defined in a separate agreement to be prepared by the Organization with a view to its acceptance by the States Members.

**Annex: Declaration of Philadelphia**

**Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), 1944**

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

**I**

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

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

**II**

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

- (a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;

- (e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

### III

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

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

- (j) the assurance of equality of educational and vocational opportunity.

### IV

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

### V

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

### Amendments to the Constitution

The original text of the Constitution, established in 1919, has been modified by the amendment of 1922 which entered into force on 4 June 1934; the Instrument of Amendment of 1945 which entered into force on 26 September 1946; the Instrument of Amendment of 1946 which entered into force on 20 April 1948; the Instrument of Amendment of 1953 which entered into force on 20 May 1954; the Instrument of Amendment of 1962 which entered into force on 22 May 1963; and the Instrument of Amendment of 1972 which entered into force on 1 November 1974.

## ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998

Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010)

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

### THE INTERNATIONAL LABOUR CONFERENCE

1. Recalls:
  - (a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;
  - (b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.
2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:
  - (a) freedom of association and the effective recognition of the right to collective bargaining;
  - (b) the elimination of all forms of forced or compulsory labour;
  - (c) the effective abolition of child labour; and
  - (d) the elimination of discrimination in respect of employment and occupation.
3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:
  - (a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;
  - (b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles

concerning fundamental rights which are the subject of these Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

## **Annex (Revised)**

### **Follow-up to the Declaration**

#### **I. OVERALL PURPOSE**

1. The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.

2. In line with this objective, which is of a strictly promotional nature, this follow up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the purview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.

3. The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaptation of the present modalities of application of article 19, paragraph 5(e), of the Constitution; and the Global Report on the effect given to the promotion of the fundamental principles and rights at work that will serve to inform the recurrent discussion at the Conference on the needs of the Members, the ILO action undertaken, and the results achieved in the promotion of the fundamental principles and rights at work.

## **II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS**

### *A. Purpose and scope*

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.

2. The follow-up will cover the four categories of fundamental principles and rights specified in the Declaration.

### *B. Modalities*

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e), of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.

2. These reports, as compiled by the Office, will be reviewed by the Governing Body.

3. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

## **III. GLOBAL REPORT ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK**

### *A. Purpose and scope*

1. The purpose of the Global Report is to provide a dynamic global picture relating to the four categories of fundamental principles and rights at work noted during the preceding period, and to serve as a basis for assessing the effectiveness of the assistance provided by the Organization, and for determining priorities for the following period, including in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

### *B. Modalities*

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the findings of the aforementioned annual

follow-up. In the case of Members which have ratified the Conventions concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution. It will also refer to the experience gained from technical cooperation and other relevant activities of the ILO.

2. This report will be submitted to the Conference for a recurrent discussion on the strategic objective of fundamental principles and rights at work based on the modalities agreed by the Governing Body. It will then be for the Conference to draw conclusions from this discussion on all available ILO means of

action, including the priorities and plans of action for technical cooperation to be implemented for the following period, and to guide the Governing Body and the Office in their responsibilities.

#### IV. IT IS UNDERSTOOD THAT:

The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

### ILO Declaration on Social Justice for a Fair Globalization, 2008

The International Labour Conference, meeting in Geneva on the occasion of its Ninety-seventh Session,

Considering that the present context of globalization, characterized by the diffusion of new technologies, the flow of ideas, the exchange of goods and services, the increase in capital and financial flows, the internationalization of business and business processes and dialogue as well as the movement of persons, especially working women and men, is reshaping the world of work in profound ways:

- on the one hand, the process of economic cooperation and integration has helped a number of countries to benefit from high rates of economic growth and employment creation, to absorb many of the rural poor into the modern urban economy, to advance their developmental goals, and to foster innovation in product development and the circulation of ideas;
- on the other hand, global economic integration has caused many countries and sectors to face major challenges of income inequality, continuing high levels of unemployment and poverty, vulnerability of economies to external shocks, and the growth of both unprotected work and the informal economy, which impact on the employment relationship and the protections it can offer;

Recognizing that achieving an improved and fair outcome for all has become even more necessary in these circumstances to meet the universal aspiration for social justice, to reach full employment, to ensure the sustainability of open societies and the global economy, to achieve social cohesion and to combat poverty and rising inequalities;

Convinced that the International Labour Organization has a key role to play in helping to promote and achieve progress and social justice in a constantly changing environment:

- based on the mandate contained in the ILO Constitution, including the Declaration of Philadelphia (1944), which continues to be fully relevant in the twenty-first century and should inspire the policy of its Members and which, among other aims, purposes and principles:
  - affirms that labour is not a commodity and that poverty anywhere constitutes a danger to prosperity everywhere;
  - recognizes that the ILO has the solemn obligation to further among the nations of the world programmes which will achieve the objectives of full employment and the raising of standards of living, a minimum living wage and the extension of social security measures to provide a basic income to all in need, along with all the other objectives set out in the Declaration of Philadelphia;
  - provides the ILO with the responsibility to examine and consider all international economic and financial policies in the light of the fundamental objective of social justice; and
- drawing on and reaffirming the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) in which Members recognized, in the discharge of the Organization's mandate, the particular significance of the fundamental rights, namely: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or

compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation;

Encouraged by the international community's recognition of Decent Work as an effective response to the challenges of globalization, having regard to:

- the outcomes of the 1995 World Summit for Social Development in Copenhagen;
- the wide support, repeatedly expressed at global and regional levels, for the decent work concept developed by the ILO; and
- the endorsement by Heads of State and Government at the 2005 World Summit of the United Nations of fair globalization and the goals of full and productive employment and decent work for all, as central objectives of their relevant national and international policies;

Convinced that in a world of growing interdependence and complexity and the internationalization of production:

- the fundamental values of freedom, human dignity, social justice, security and non-discrimination are essential for sustainable economic and social development and efficiency;
- social dialogue and the practice of tripartism between governments and the representative organizations of workers and employers within and across borders are now more relevant to achieving solutions and to building up social cohesion and the rule of law through, among other means, international labour standards; the importance of the employment relationship should be recognized as a means of providing legal protection to workers;
- productive, profitable and sustainable enterprises, together with a strong social economy and a viable public sector, are critical to sustainable economic development and employment opportunities; and
- the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977), as revised, which addresses the growing role of such actors in the realization of the Organization's objectives, has particular relevance; and

Recognizing that the present challenges call for the Organization to intensify its efforts and to mobilize all its means of action to promote its constitutional objectives, and that, to make these efforts effective and strengthen the ILO's capacity to assist its Members' efforts to reach the ILO's objectives in the context of globalization, the Organization must:

- ensure coherence and collaboration in its approach to advancing its development of a global and integrated approach, in line with the Decent Work Agenda and the four strategic objectives of the ILO, drawing upon the synergies among them;
- adapt its institutional practices and governance to improve effectiveness and efficiency while fully respecting the existing constitutional framework and procedures;
- assist constituents to meet the needs they have expressed at country level based on full tripartite discussion, through the provision of high-quality information, advice and technical programmes that help them meet those needs in the context of the ILO's constitutional objectives; and
- promote the ILO's standard-setting policy as a cornerstone of ILO activities by enhancing its relevance to the world of work, and ensure the role of standards as a useful means of achieving the constitutional objectives of the Organization;

Therefore adopts this tenth day of June of the year two thousand and eight the present Declaration.

## I. SCOPE AND PRINCIPLES

The Conference recognizes and declares that:

A. In the context of accelerating change, the commitments and efforts of Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards, and to place full and productive employment and decent work at the centre of economic and social policies, should be based on the four equally important strategic objectives of the ILO, through which the Decent Work Agenda is expressed and which can be summarized as follows:

- (i) promoting employment by creating a sustainable institutional and economic environment in which:
  - individuals can develop and update the necessary capacities and skills they need to enable them to be productively occupied for their personal fulfilment and the common well-being;
  - all enterprises, public or private, are sustainable to enable growth and the generation of greater employment and income opportunities and prospects for all; and
  - societies can achieve their goals of economic development, good living standards and social progress;

- (ii) developing and enhancing measures of social protection – social security and labour protection – which are sustainable and adapted to national circumstances, including:
    - the extension of social security to all, including measures to provide basic income to all in need of such protection, and adapting its scope and coverage to meet the new needs and uncertainties generated by the rapidity of technological, societal, demographic and economic changes;
    - healthy and safe working conditions; and
    - policies in regard to wages and earnings, hours and other conditions of work, designed to ensure a just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection;\*1 {\* Ed. note: In drafting this text, priority was given in each language to concordance with the corresponding official version of article III(d) of the Declaration of Philadelphia adopted by the International Labour Conference in 1944}.
  - (iii) promoting social dialogue and tripartism as the most appropriate methods for:
    - adapting the implementation of the strategic objectives to the needs and circumstances of each country;
    - translating economic development into social progress, and social progress into economic development;
    - facilitating consensus building on relevant national and international policies that impact on employment and decent work strategies and programmes; and
    - making labour law and institutions effective, including in respect of the recognition of the employment relationship, the promotion of good industrial relations and the building of effective labour inspection systems; and
  - (iv) respecting, promoting and realizing the fundamental principles and rights at work, which are of particular significance, as both rights and enabling conditions that are necessary for the full realization of all of the strategic objectives, noting:
    - that freedom of association and the effective recognition of the right to collective bargaining are particularly important to enable the attainment of the four strategic objectives; and
    - that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.
- B. The four strategic objectives are inseparable, interrelated and mutually supportive. The failure to promote any one of them would harm progress towards the others. To optimize their impact, efforts to promote them should be part of an ILO global and integrated strategy for decent work. Gender equality and non-discrimination must be considered to be cross-cutting issues in the abovementioned strategic objectives.
- C. How Members achieve the strategic objectives is a question that must be determined by each Member subject to its existing international obligations and the fundamental principles and rights at work with due regard, among others, to:
- (i) the national conditions and circumstances, and needs as well as priorities expressed by representative organizations of employers and workers;
  - (ii) the interdependence, solidarity and cooperation among all Members of the ILO that are more pertinent than ever in the context of a global economy; and
  - (iii) the principles and provisions of international labour standards.

## II. METHOD OF IMPLEMENTATION

The Conference further recognizes that, in a globalized economy:

A. The implementation of Part I of this Declaration requires that the ILO effectively assist its Members in their efforts. To that end, the Organization should review and adapt its institutional practices to enhance governance and capacity building in order to make the best use of its human and financial resources and of the unique advantage of its tripartite structure and standards system, with a view to:

- (i) better understanding its Members' needs, with respect to each of the strategic objectives, as well as past ILO action to meet them in the framework of a recurring item on the agenda of the Conference, so as to:
  - determine how the ILO can more efficiently address these needs through coordinated use of all its means of action;
  - determine the necessary resources to address these needs and, if appropriate, to attract additional resources; and

- guide the Governing Body and the Office in their responsibilities;
- (ii) strengthening and streamlining its technical cooperation and expert advice in order to:
  - support and assist efforts by individual Members to make progress on a tripartite basis towards all the strategic objectives, through country programmes for decent work, where appropriate, and within the framework of the United Nations system; and
  - help, wherever necessary, the institutional capacity of member States, as well as representative organizations of employers and workers, to facilitate meaningful and coherent social policy and sustainable development;
- (iii) promoting shared knowledge and understanding of the synergies between the strategic objectives through empirical analysis and tripartite discussion of concrete experiences, with the voluntary cooperation of countries concerned, and with a view to informing Members' decision-making in relation to the opportunities and challenges of globalization;
- (iv) upon request, providing assistance to Members who wish to promote strategic objectives jointly within the framework of bilateral or multilateral agreements, subject to their compatibility with ILO obligations; and
- (v) developing new partnerships with non-state entities and economic actors, such as multinational enterprises and trade unions operating at the global sectoral level in order to enhance the effectiveness of ILO operational programmes and activities, enlist their support in any appropriate way, and otherwise promote the ILO strategic objectives. This will be done in consultation with representative national and international organizations of workers and employers.

B. At the same time, Members have a key responsibility to contribute, through their social and economic policy, to the realization of a global and integrated strategy for the implementation of the strategic objectives, which encompass the Decent Work Agenda outlined in Part I of this Declaration. Implementation of the Decent Work Agenda at national level will depend on national needs and priorities and it will be for member States, in consultation with the representative organizations of workers and employers, to determine how to discharge that responsibility.

To that end, they may consider, among other steps:

- (i) the adoption of a national or regional strategy for decent work, or both, targeting a set of priorities for the integrated pursuit of the strategic objectives;
- (ii) the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made;
- (iii) the review of their situation as regards the ratification or implementation of ILO instruments with a view to achieving a progressively increasing coverage of each of the strategic objectives, with special emphasis on the instruments classified as core labour standards as well as those regarded as most significant from the viewpoint of governance covering tripartism, employment policy and labour inspection;
- (iv) the taking of appropriate steps for an adequate coordination between positions taken on behalf of the member State concerned in relevant international forums and any steps they may take under the present Declaration;
- (v) the promotion of sustainable enterprises;
- (vi) where appropriate, sharing national and regional good practice gained from the successful implementation of national or regional initiatives with a decent work element; and the provision on a bilateral, regional or multilateral basis, in so far as their resources permit, of appropriate support to other Members' efforts to give effect to the principles and objectives referred to in this Declaration.

C. Other international and regional organizations with mandates in closely related fields can have an important contribution to make to the implementation of the integrated approach. The ILO should invite them to promote decent work, bearing in mind that each agency will have full control of its mandate. As trade and financial market policy both affect employment, it is the ILO's role to evaluate those employment effects to achieve its aim of placing employment at the heart of economic policies.

### III. FINAL PROVISIONS

A. The Director-General of the International Labour Office will ensure that the present Declaration is communicated to all Members and, through them, to representative organizations of employers and workers, to international organizations with competence in related fields at the international and regional levels, and to such other entities as the

Governing Body may identify. Governments, as well as employers' and workers' organizations at the national level, shall make the Declaration known in all relevant forums where they may participate or be represented, or otherwise disseminate it to any other entities that may be concerned.

B. The Governing Body and the Director-General of the International Labour Office will have the responsibility for establishing appropriate modalities for the expeditious implementation of Part II of this Declaration.

C. At such time(s) as the Governing Body may find appropriate, and in accordance with modalities to be established, the impact of the present Declaration, and in particular the steps taken to promote its implementation, will be the object of a review by the International Labour Conference with a view to assessing what action might be appropriate.

## **ANNEX FOLLOW-UP TO THE DECLARATION**

### **I. Overall purpose and scope**

A. The aim of this follow-up is to address the means by which the Organization will assist the efforts of its Members to give effect to their commitment to pursue the four strategic objectives important for implementing the constitutional mandate of the Organization.

B. This follow-up seeks to make the fullest possible use of all the means of action provided under the Constitution of the ILO to fulfil its mandate. Some of the measures to assist the Members may entail some adaptation of existing modalities of application of article 19, paragraphs 5(e) and 6(d), of the ILO Constitution, without increasing the reporting obligations of member States.

### **II. Action by the Organization to assist its Members**

#### *Administration, resources and external relations*

A. The Director-General will take all necessary steps, including making proposals to the Governing Body as appropriate, to ensure the means by which the Organization will assist the Members in their efforts under this Declaration. Such steps will include reviewing and adapting the ILO's institutional practices and governance as set out in the Declaration and should take into account the need to ensure:

- (i) coherence, coordination and collaboration within the International Labour Office for its efficient conduct;
- (ii) building and maintaining policy and operational capacity;

- (iii) efficient and effective resource use, management processes and institutional structures;
- (iv) adequate competencies and knowledge base, and effective governance structures;
- (v) the promotion of effective partnerships within the United Nations and the multilateral system to strengthen ILO operational programmes and activities or otherwise promote ILO objectives; and
- (vi) the identification, updating and promotion of the list of standards that are the most significant from the viewpoint of governance. {Note: The Labour Inspection Convention, 1947 (No. 81), the Employment Policy Convention, 1964 (No. 122), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and those standards identified on subsequently updated lists.}

#### *Understanding and responding to Members' realities and needs*

B. The Organization will introduce a scheme of recurrent discussions by the International Labour Conference based on modalities agreed by the Governing Body, without duplicating the ILO's supervisory mechanisms, so as to:

- (i) understand better the diverse realities and needs of its Members with respect to each of the strategic objectives, respond more effectively to them, using all the means of action at its disposal, including standards related action, technical cooperation, and the technical and research capacity of the Office, and adjust its priorities and programmes of action accordingly; and
- (ii) assess the results of the ILO's activities with a view to informing programme, budget and other governance decisions.

#### *Technical assistance and advisory services*

C. The Organization will provide, upon request of governments and representative organizations of workers and employers, all appropriate assistance within its mandate to support Members' efforts to make progress towards the strategic objectives through an integrated and coherent national or regional strategy, including by:

- (i) strengthening and streamlining its technical cooperation activities within the framework of country programmes for decent work and that of the United Nations system;
- (ii) providing general expertise and assistance which each Member may

request for the purpose of adopting a national strategy and exploring innovative partnerships for implementation;

- (iii) developing appropriate tools for effectively evaluating the progress made and assessing the impact that other factors and policies may have on the Members' efforts; and
- (iv) addressing the special needs and capacities of developing countries and of the representative organizations of workers and employers, including by seeking resource mobilization.

*Research, information collection and sharing*

D. The Organization will take appropriate steps to strengthen its research capacity, empirical knowledge and understanding of how the strategic objectives interact with each other and contribute to social progress, sustainable enterprises, sustainable development and the eradication of poverty in the global economy. These steps may include the tripartite sharing of experiences and good practices at the international, regional and national levels in the framework of:

- (i) studies conducted on an ad hoc basis with the voluntary cooperation of the governments and representative organizations of employers and workers in the countries concerned; or
- (ii) any common schemes such as peer reviews which interested Members may wish to establish or join on a voluntary basis.

**III. Evaluation by the Conference**

A. The impact of the Declaration, in particular the extent to which it has contributed to promoting, among Members, the aims and purposes of the Organization through the integrated pursuit of the strategic objectives, will be the subject of evaluation by the Conference, which may be repeated from time to time, within the framework of an item placed on its agenda.

B. The Office will prepare a report to the Conference for evaluation of the impact of the Declaration, which will contain information on:

- (i) actions or steps taken as a result of the present Declaration, which may be provided by tripartite constituents through the services of the ILO, notably in the regions, and by any other reliable source;
- (ii) steps taken by the Governing Body and the Office to follow up on relevant governance, capacity and knowledge-based issues relating to the pursuit of the strategic objectives, including programmes and activities of the ILO and their impact; and
- (iii) the possible impact of the Declaration in relation to other interested international organizations.

C. Interested multilateral organizations will be given the opportunity to participate in the evaluation of the impact and in the discussion. Other interested entities may attend and participate in the discussion at the invitation of the Governing Body.

D. In the light of its evaluation, the Conference will draw conclusions regarding the desirability of further evaluations or the opportunity of engaging in any appropriate course of action.

The foregoing is the *ILO Declaration on Social Justice for a Fair Globalization* duly adopted by the General Conference of the International Labour Organization during its Ninety seventh Session which was held at Geneva and declared closed on 13 June 2008.

IN FAITH WHEREOF we have appended our signatures this thirteenth day of June 2008:

The President of the Conference,  
EDWIN SALAMIN JAEN

The Director-General of  
the International Labour Office,  
JUAN SOMAVIA

**Recovering from the Crisis: a Global Jobs Pact, 2009**

The General Conference of the International Labour Organization,

Having heard the Heads of State, Vice-Presidents, Prime Ministers and all other participants in the ILO Summit on the Global Jobs Crisis,

Having received the proposal made by the Conference Committee of the Whole on Crisis Responses,

Considering the important role that the Governing Body and the International Labour Office have in the implementation of resolutions adopted by the Conference,

Having in mind the Decent Work Agenda and the Declaration on Social Justice for a Fair Globalization as ways of dealing with the social dimension of globalization,

adopts, this nineteenth day of June of the year two thousand and nine, the following resolution.

**RECOVERING FROM THE CRISIS:  
A GLOBAL JOBS PACT**

**I. A decent work response to the crisis**

1. The global economic crisis and its aftermath mean the world faces the prospect of a prolonged increase in unemployment, deepening poverty and inequality. Employment has usually only recovered several years after economic recovery. In some countries, the simple recovery of previous employment levels will not be enough to contribute effectively to strong economies, and to achieve decent work for women and men.

2. Enterprises and employment are being lost. Addressing this situation must be part of any comprehensive response.

3. The world must do better.

4. There is a need for coordinated global policy options in order to strengthen national and international efforts centred around jobs, sustainable enterprises, quality public services, protecting people whilst safeguarding rights and promoting voice and participation.

5. This will contribute to economic revitalization, fair globalization, prosperity and social justice.

6. The world should look different after the crisis.

7. Our response should contribute to a fair globalization, a greener economy and development that more effectively creates jobs and sustainable enterprises, respects workers' rights, promotes gender equality, protects vulnerable people, assists countries in the provision of quality public services and enables countries to achieve the Millennium Development Goals.

8. Governments and workers' and employers' organizations commit to work together to contribute to the success of the Global Jobs Pact. The International Labour Organization's (ILO's) Decent Work Agenda forms the framework for this response.

**II. Principles for promoting recovery and development**

9. Action must be guided by the Decent Work Agenda and commitments made by the ILO and its constituents in the 2008 Declaration on Social Justice for a Fair Globalization. We set out here a framework for the period ahead and a resource of practical policies for the multilateral system, governments, workers and employers. It ensures linkages between social

progress and economic development and involves the following principles:

- (1) devoting priority attention to protecting and growing employment through sustainable enterprises, quality public services and building adequate social protection for all as part of ongoing international and national action to aid recovery and development. The measures should be implemented quickly in a coordinated manner;
- (2) enhancing support to vulnerable women and men hit hard by the crisis including youth at risk, low-wage, low-skilled, informal economy and migrant workers;
- (3) focusing on measures to maintain employment and facilitate transitions from one job to another as well as to support access to the labour market for those without a job;
- (4) establishing or strengthening effective public employment services and other labour market institutions;
- (5) increasing equal access and opportunities for skills development, quality training and education to prepare for recovery;
- (6) avoiding protectionist solutions as well as the damaging consequences of deflationary wage spirals and worsening working conditions;
- (7) promoting core labour standards and other international labour standards that support the economic and jobs recovery and reduce gender inequality;
- (8) engaging in social dialogue, such as tripartism and collective bargaining between employers and workers as constructive processes to maximize the impact of crisis responses to the needs of the real economy;
- (9) ensuring that short-term actions are coherent with economic, social and environmental sustainability;
- (10) ensuring synergies between the State and the market and effective and efficient regulation of market economies including a legal and regulatory environment which enables enterprise creation, sustainable enterprises and promotes employment generation across sectors; and
- (11) the ILO, engaging with other international agencies, international financial institutions and developed countries to strengthen policy coherence and to deepen development assistance and support for least developed, developing and transition countries with restricted fiscal and policy space to respond to the crisis.

### III. Decent work responses

10. The above principles set the general framework within which each country can formulate a policy package specific to its situation and priorities. They equally should inform and support action by the multilateral institutions. Set out below are some specific policy options.

#### **Accelerating employment creation, jobs recovery and sustaining enterprises**

11. To limit the risk of long-term unemployment and increased informality which are difficult to reverse, we need to support job creation and help people into work. To achieve this, we agree to put the aim of full and productive employment and decent work at the heart of the crisis responses. These responses may include:

- (1) boosting effective demand and helping maintain wage levels including via macroeconomic stimulus packages;
- (2) helping jobseekers by:
  - (i) implementing effective, properly targeted active labour market policies;
  - (ii) enhancing the competence and increasing resources available to public employment services so that jobseekers receive adequate support and, where they are working with private employment agencies, ensuring that quality services are provided and rights respected; and
  - (iii) implementing vocational and entrepreneurial skills programmes for paid and self-employment;
- (3) investing in workers' skills development, skills upgrading and re-skilling to improve employability, in particular for those having lost or at risk of losing their job and vulnerable groups;
- (4) limiting or avoiding job losses and supporting enterprises in retaining their workforce through well-designed schemes implemented through social dialogue and collective bargaining. These could include work-sharing and partial unemployment benefits;
- (5) supporting job creation across sectors of the economy, recognizing the multiplier effect of targeted efforts;
- (6) recognizing the contribution of small and medium-sized enterprises (SMEs) and micro-enterprises to job creation, and promoting measures, including access to affordable credit, that would ensure a favourable environment for their development;
- (7) recognizing that cooperatives provide jobs in our communities from very small businesses to large multinationals and tailoring support for them according to their needs;
- (8) using public employment guarantee schemes for temporary employment, emergency public works programmes and other direct job creation schemes which are well targeted, and include the informal economy;
- (9) implementing a supportive regulatory environment conducive to job creation through sustainable enterprise creation and development; and
- (10) increasing investment in infrastructure, research and development, public services and "green" production and services as important tools for creating jobs and stimulating sustained economic activity.

#### **Building social protection systems and protecting people**

12. Sustainable social protection systems to assist the vulnerable can prevent increased poverty, address social hardship, while also helping to stabilize the economy and maintain and promote employability. In developing countries, social protection systems can also alleviate poverty and contribute to national economic and social development. In a crisis situation, short-term measures to assist the most vulnerable may be appropriate.

- (1) Countries should give consideration, as appropriate, to the following:
  - (i) introducing cash transfer schemes for the poor to meet their immediate needs and to alleviate poverty;
  - (ii) building adequate social protection for all, drawing on a basic social protection floor including: access to health care, income security for the elderly and persons with disabilities, child benefits and income security combined with public employment guarantee schemes for the unemployed and working poor;
  - (iii) extending the duration and coverage of unemployment benefits (hand in hand with relevant measures to create adequate work incentives recognizing the current realities of national labour markets);
  - (iv) ensuring that the long-term unemployed stay connected to the labour market through, for example, skills development for employability;
  - (v) providing minimum benefit guarantees in countries where pension or health funds may no longer be adequately funded to ensure workers are adequately protected

and considering how to better protect workers' savings in future scheme design; and

- (vi) providing adequate coverage for temporary and non-regular workers.

(2) All countries should, through a combination of income support, skills development and enforcement of rights to equality and non-discrimination, help vulnerable groups most hard hit by the crisis.

(3) In order to avoid deflationary wage spirals, the following options should be a guide:

- social dialogue;
- collective bargaining;
- statutory or negotiated minimum wages.

Minimum wages should be regularly reviewed and adapted. Governments as employers and procurers should respect and promote negotiated wage rates. Narrowing the gender pay gap must be an integrated part of these efforts.

13. Countries that have strong and efficiently run social protection systems have a valuable inbuilt mechanism to stabilize their economies and address the social impact of the crisis. These countries may need to reinforce existing social protection systems. For other countries, the priority is to meet urgent needs, while building the foundation for stronger and more effective systems.

Strengthening respect for international labour standards

14. International labour standards create a basis for and support rights at work and contribute to building a culture of social dialogue particularly useful in times of crisis. In order to prevent a downward spiral in labour conditions and build the recovery, it is especially important to recognize that:

(1) Respect for fundamental principles and rights at work is critical for human dignity. It is also critical for recovery and development. Consequently, increase:

(i) vigilance to achieve the elimination and prevention of an increase in forms of forced labour, child labour and discrimination at work; and

(ii) respect for freedom of association, the right to organize and the effective recognition of the right to collective bargaining as enabling mechanisms to productive social dialogue in times of increased social tension, in both the formal and informal economies.

(2) A number of international labour Conventions and Recommendations, in addition to the fundamental Conventions, are

relevant. These include ILO instruments concerning employment policy, wages, social security, the employment relationship, the termination of employment, labour administration and inspection, migrant workers, labour conditions on public contracts, occupational safety and health, working hours and social dialogue mechanisms.

(3) The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is an important and useful tool for all enterprises, including those in supply chains, for responding to the crisis in a socially responsible manner.

Social dialogue: Bargaining collectively, identifying priorities, stimulating action

15. Especially in times of heightened social tension, strengthened respect for, and use of, mechanisms of social dialogue, including collective bargaining, where appropriate at all levels, is vital.

16. Social dialogue is an invaluable mechanism for the design of policies to fit national priorities. Furthermore, it is a strong basis for building the commitment of employers and workers to the joint action with governments needed to overcome the crisis and for a sustainable recovery. Successfully concluded, it inspires confidence in the results achieved.

17. Strengthening capacities for labour administration and labour inspection is an important element in inclusive action on worker protection, social security, labour market policies and social dialogue.

#### **IV. The way forward: Shaping a fair and sustainable globalization**

18. The above agenda closely interacts with other dimensions of globalization and requires policy coherence and international coordination. The ILO should collaborate fully with the United Nations and all relevant international organizations.

19. The ILO welcomes the G20 invitation to the ILO, working with other relevant organizations, to assess the actions taken and those required for the future.

20. We affirm our support to the ILO's role within the UN Chief Executives Board (CEB), which can help to create a favourable international environment for the mitigation of the crisis. We encourage the ILO to play a facilitating role to ensure effective and coherent implementation of social and economic policies in this respect.

21. Cooperation is particularly important on the following issues:

- (1) building a stronger, more globally consistent, supervisory and regulatory

framework for the financial sector, so that it serves the real economy, promotes sustainable enterprises and decent work and better protects savings and pensions of people;

- (2) promoting efficient and well-regulated trade and markets that benefit all and avoiding protectionism by countries. Varying development levels of countries must be taken into account in lifting barriers to domestic and foreign markets; and
- (3) shifting to a low-carbon, environment-friendly economy that helps accelerate the jobs recovery, reduce social gaps and support development goals and realize decent work in the process.

22. For many developing countries, especially the least developed, the global recession exacerbates large-scale structural unemployment, underemployment and poverty. We recognize the need to:

- (1) give much greater priority to the generation of decent work opportunities with systematic, well-resourced, multi-dimensional programmes to realize decent work and development in the least developed countries;
- (2) promote the creation of employment and create new decent work opportunities through the promotion and development of sustainable enterprises;
- (3) provide vocational and technical training and entrepreneurial skills development especially for unemployed youth;
- (4) address informality to achieve the transition to formal employment;
- (5) recognize the value of agriculture in developing economies and the need for rural infrastructure, industry and employment;
- (6) enhance economic diversity by building capacity for value-added production and services to stimulate both domestic and external demand;
- (7) encourage the international community, including international financial institutions, to make available resources for countercyclical action in countries facing fiscal and policy constraints;
- (8) keep commitments to increased aid to prevent a serious setback to the Millennium Development Goals; and
- (9) urge the international community to provide development assistance, including budgetary support, to build up a basic social protection floor on a national basis. Governments should consider options such as minimum wages that can reduce

poverty and inequity, increase demand and contribute to economic stability. The ILO's Minimum Wage Fixing Convention, 1970 (No. 131), can provide guidance in this respect.

24. This current crisis should be viewed as an opportunity to shape new gender equality policy responses. Recovery packages during economic crises need to take into account the impact on women and men and integrate gender concerns in all measures. In discussions on recovery packages, both regarding their design and assessing their success, women must have an equal voice with men.

25. Giving effect to the recommendations and policy options of the Global Jobs Pact requires consideration of financing. Developing countries that lack the fiscal space to adopt response and recovery policies require particular support. Donor countries and multilateral agencies are invited to consider providing funding, including existing crisis resources, for the implementation of these recommendations and policy options.

#### V. ILO action

26. The ILO has recognized authority in key areas of importance to respond to the crisis and to promote economic and social development. The ILO's capacity for research and economic and social data analysis is important in this context. Its expertise should be at the centre of its work with governments, social partners and the multilateral system. It includes, but is not limited to:

- employment generation;
- social protection design and financing models;
- active labour market programmes;
- minimum wage setting mechanisms;
- labour market institutions;
- labour administration and labour inspection;
- decent work programmes;
- enterprise creation and development;
- international labour standards implementation and monitoring;
- social dialogue;
- data collection;
- gender equality in the labour market;
- workplace programmes on HIV/AIDS; and
- labour migration.

The following activities can only strengthen the practical work outlined above:

- improving countries' capacity to produce and use labour market information, including on wage trends, as a basis for

- informed policy decisions, and collect and analyse consistent data to help countries benchmark their progress;
- collecting and disseminating information on countries' crisis response and recovery packages;
- assessing the actions taken and those required for the future, working with other relevant organizations;
- strengthening partnerships with regional development banks and other international financial institutions;
- strengthening country-level diagnostic and policy advisory capacity; and
- prioritizing crisis response in Decent Work Country Programmes.

28. The ILO commits to allocating the necessary human and financial resources and working with other agencies to assist constituents who request such support to utilize the Global Jobs Pact. In doing so, the ILO will be guided by the 2008 Declaration on Social Justice for a Fair Globalization and accompanying resolution.

## Resolution and conclusions concerning social security, International Labour Conference, 89th Session, 2001

### Resolution concerning social security

The General Conference of the International Labour Organization, meeting in its 89th Session, 2001,

Having undertaken a general discussion on the basis of Report VI, *Social security: Issues, challenges and prospects*;

1. Adopts the following conclusions;
2. Invites the Governing Body of the International Labour Office:
  - (a) to give due consideration to them in planning future action on social security;
  - (b) to request the Director-General to take them into account both when preparing the programme and budget for the 2004-05 biennium and in allocating such resources as may be available during the 2002-03 biennium.

### Conclusions concerning social security

1. In 1944 the Conference recognized "the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". It is time for a renewed campaign by the ILO to improve and extend social security coverage to all those in need of such protection. The Director-General is invited to address the conclusions set out below with the seriousness and urgency they deserve in order to overcome a fundamental social injustice affecting hundreds of millions in member States.
2. Social security is very important for the well-being of workers, their families and the entire community. It is a basic human right and a fundamental means for creating social

cohesion, thereby helping to ensure social peace and social inclusion. It is an indispensable part of government social policy and an important tool to prevent and alleviate poverty. It can, through national solidarity and fair burden sharing, contribute to human dignity, equity and social justice. It is also important for political inclusion, empowerment and the development of democracy.

3. Social security, if properly managed, enhances productivity by providing health care, income security and social services. In conjunction with a growing economy and active labour market policies, it is an instrument for sustainable social and economic development. It facilitates structural and technological changes which require an adaptable and mobile labour force. It is noted that while social security is a cost for enterprises, it is also an investment in, or support for, people. With globalization and structural adjustment policies, social security becomes more necessary than ever.

4. There is no single right model of social security. It grows and evolves over time. There are schemes of social assistance, universal schemes, social insurance and public or private provisions. Each society must determine how best to ensure income security and access to health care. These choices will reflect their social and cultural values, their history, their institutions and their level of economic development. The State has a priority role in the facilitation, promotion and extension of coverage of social security. All systems should conform to certain basic principles. In particular, benefits should be secure and non-discriminatory; schemes should be managed in a sound and transparent manner, with administrative costs as low as practicable and a strong role for the social partners. Public confidence in social

security systems is a key factor for their success. For confidence to exist, good governance is essential.

5. Of highest priority are policies and initiatives which can bring social security to those who are not covered by existing systems. In many countries these include employees in small workplaces, the self-employed, migrant workers, and people – many of them women – active in the informal economy. When coverage cannot be immediately provided to these groups, insurance – where appropriate on a voluntary basis – or other measures such as social assistance could be introduced and extended and integrated into the social security system at a later stage when the value of the benefits has been demonstrated and it is economically sustainable to do so. Certain groups have different needs and some have very low contributory capacity. The successful extension of social security requires that these differences be taken into account. The potential of microinsurance should also be rigorously explored: even if it cannot be the basis of a comprehensive social security system, it could be a useful first step, particularly in responding to people's urgent need for improved access to health care. Policies and initiatives on the extension of coverage should be taken within the context of an integrated national social security strategy.

6. The fundamental challenge posed by the informal economy is how to integrate it into the formal economy. This is a matter of equity and social solidarity. Policies must encourage movement away from the informal economy. Support for vulnerable groups in the informal economy should be financed by society as a whole.

7. For persons of working age, the best way to provide a secure income is through decent work. The provision of cash benefits to the unemployed should therefore be closely coordinated with training and retraining and other assistance they may require in order to find employment. With the growth of economies in the future, education and skills of the workforce will be increasingly important. Education should be made available to all children to achieve adequate life skills, literacy and numeracy, and to facilitate personal growth and entry into the workforce. Lifelong learning is vital to maintain employability in today's economy. Unemployment benefits should be designed so that they do not create dependency or barriers to employment. Measures to make work financially more attractive than being in receipt of social security have been found effective. However

benefits must be adequate. Where it is not deemed feasible to establish a system of unemployment benefits, efforts should be made to provide employment in labour-intensive public works and other projects, as is successfully done in a number of developing countries.

8. Social security should promote and be based on the principle of gender equality. However, this implies not only equal treatment for men and women in the same or similar situations, but also measures to ensure equitable outcomes for women. Society derives great benefit from the unpaid care which women in particular provide to children, parents and infirm family members. Women should not be systemically disadvantaged later in life because they made this contribution during their working years.

9. As a result of the vastly increased participation of women in the labour force and the changing roles of men and women, social security systems originally based on the male breadwinner model correspond less and less to the needs of many societies. Social security and social services should be designed on the basis of equality of men and women. Measures which facilitate the access of women to employment will support the trend towards granting women social security benefits in their own right, rather than as dependants. The nature of survivors' benefits needs to be kept under review and, in the event of reform, appropriate transitional provisions must be made to protect women whose life course and expectations have been based on the patterns of the past.

10. In most societies, continued inequalities in earnings between men and women tend to affect women's social security entitlements. This underlines the need for continued efforts to combat wage discrimination and to consider the desirability of introducing a minimum wage, where it does not already exist. Where either parent provides care for children, social security benefits for childcare purposes should be made available to the caregiver. Furthermore, each society should consider introducing positive discrimination in favour of women where systemic discrimination is faced.

11. The ageing of the population in many societies is a phenomenon which is having a significant effect on both advance-funded and pay-as-you-go pension systems and on the cost of health care. This is transparent in pay-as-you-go systems where a direct transfer takes place from contributors to pensioners. It is, however, just as real in advance-funded systems, where financial assets are sold to

pay for pensions and purchased by the working generation. Solutions must be sought above all through measures to increase employment rates, notably of women, older workers, youth and persons with disabilities. Ways must also be found to achieve higher levels of sustainable economic growth leading to additional numbers in productive employment.

12. In many developing countries, particularly in sub-Saharan Africa, the HIV/AIDS pandemic is having a catastrophic effect on every aspect of society. Its impact on the financial base of their social security systems is particularly acute, as the victims are concentrated among the working age population. This crisis calls for a much more urgent response through research and technical assistance by the ILO.

13. In pay-as-you-go defined benefit pension systems, risk is borne collectively. In systems of individual savings accounts, on the other hand, risk is borne by the individual. While this is an option which exists, it should not weaken solidarity systems which spread risks throughout the whole of the scheme membership. Statutory pension schemes must guarantee adequate benefit levels and ensure national solidarity. Supplementary and other negotiated pension schemes tailored more to the circumstances and contributory capacity of different groups in the labour force can be a valued addition to, but in most cases not a substitute for, statutory pension schemes. The social partners have an important role to play with regard to supplementary and other negotiated schemes, while the State's role is to provide an effective regulatory framework, and supervisory and enforcement mechanisms. Governments should consider that any support or tax incentives for these schemes should be targeted towards low- or medium-income earners. It is for each society to determine the appropriate mix of schemes, taking account of the conclusions of this general discussion and relevant ILO social security standards.

14. To be sustainable, the financial viability of pension systems must be guaranteed over the long term. It is therefore necessary to conduct regular actuarial projections and to implement the necessary adjustments sooner rather than later. It is essential to make a full actuarial evaluation of any proposed reform before adopting new legislation. There is a need for social dialogue on the assumptions to be used in the evaluation and on the development of policy options to address any financial imbalance.

15. Social security covers health care and family benefits and provides income security in the event of such contingencies as sickness, unemployment, old age, invalidity, employment injury, maternity or loss of a breadwinner. It is not always necessary, nor even in some cases feasible, to have the same range of social security provisions for all categories of people. However, social security systems evolve over time and can become more comprehensive in regard to categories of people and range of provisions as national circumstances permit. Where there is limited capacity to finance social security, either from general tax revenues or contributions — and particularly where there is no employer to pay a share of the contribution — priority should be given in the first instance to needs which are most pressing in the view of the groups concerned.

16. Within the framework of the basic principles set out earlier, each country should determine a national strategy for working towards social security for all. This should be closely linked to its employment strategy and to its other social policies. Targeted social assistance programmes could be one means to commence the introduction of social security for excluded groups. As government resources are limited in developing countries, there may be a need to broaden the sources of funding for social security through, for example, tripartite financing. Where possible, government support might cover initial start-up costs, in-kind support in the form of facilities and equipment, or support for low-income groups. In order to be effective, initiatives to establish or extend social security require social dialogue. Any changes to established social security systems should be introduced with adequate protection for existing beneficiaries. Innovative pilot schemes are to be encouraged. Well-designed and cost-effective research is necessary in order to provide objective evaluations of pilot schemes. Research and technical assistance are necessary to improve governance of systems.

17. ILO activities in social security should be anchored in the Declaration of Philadelphia, the decent work concept and relevant ILO social security standards. Social security is not available to the majority of the world's people. This is a major challenge which needs to be addressed in the coming years. In that regard the Conference proposes that:

- a major campaign should be launched in order to promote the extension of coverage of social security;
- the ILO should call on governments to give the issue of social security a higher priority

- and offer technical assistance in appropriate cases;
- the ILO should advise governments and the social partners on the formulation of a national social security strategy and ways to implement it;
- the ILO should collect and disseminate examples of best practice. Constituents should be encouraged to approach the ILO for special assistance to achieve outcomes which significantly improve the application of social security coverage to groups which are currently excluded. The programme is to be undertaken as soon as practicable and be subject to regular reports to the Governing Body.

18. The main areas identified for future social security research and meetings of experts are:

- the extension of coverage of social security;
- HIV/AIDS and its impact on social security;
- governance and administration of social security systems;
- equality, with an emphasis on gender and disability;
- ageing and its impact on social security;
- financing of social security;
- sharing of good practice.

These activities should form the basis for the further development of the ILO policy framework on social security and should be clearly linked to the further work programme, technical assistance priorities and activities of the ILO in this area. The ILO's technical cooperation with governments and the social

partners should include a wide range of measures, in particular:

- extending and improving social security coverage;
- developing innovative approaches in the area of social security to help people to move from the informal economy to the formal economy;
- improving the governance, financing and administration of social security schemes;
- supporting and training the social partners to participate in policy development and to serve effectively on joint or tripartite governing bodies of social security institutions;
- improving and adapting social security systems in response to changing social, demographic and economic conditions;
- introducing means to overcome discrimination in outcomes in social security.

20. The ILO should complete the programme of work as recommended above and must report regularly to the Governing Body on the results of that work, thereby enabling the Governing Body to monitor progress and decide how to proceed further.

21. The ILO should continue to develop interagency cooperation in the social security field, including with the International Social Security Association. The ILO should invite the IMF and the World Bank to support the conclusions adopted by the Conference and to join with the ILO in promoting social justice and social solidarity through the extension of comprehensive social security.

## **Resolution and conclusions concerning the recurrent discussion on social protection (social security), International Labour Conference, 100th Session, 2011**

### **Resolution concerning the recurrent discussion on social protection (social security)**

The General Conference of the International Labour Organization, meeting in Geneva at its 100th Session, 2011,

Having undertaken, in accordance with the ILO Declaration on Social Justice for a Fair Globalization, a recurrent discussion on the basis of Report VI, Social security for social justice and a fair globalization,

1. Adopts the following conclusions,

2. Invites the Governing Body of the International Labour Office as a follow-up to the recurrent discussion on social protection (social security) and in line with the following conclusions which recognize the need for a Recommendation, to place a standard-setting item entitled "Elaboration of an autonomous Recommendation on the Social Protection Floor" on the agenda of the 101st Session of the International Labour Conference, 2012, for a single discussion with a view to the adoption of a Recommendation, and

3. Invites the Governing Body of the International Labour Office to give due

consideration to the following conclusions in planning future action on social protection (social security) and requests the Director-General to take them into account when preparing and implementing the programme and budget for future biennia and when allocating such other resources as may be available during the 2012–13 biennium.

**Conclusions concerning the recurrent discussion on social protection (social security)**

Adopted at 100th Session of the International Labour Conference, 2011

**Policy and institutional context**

1. The new consensus on social security reached at the International Labour Conference, at its 89th Session in 2001, gave the highest priority to policies and initiatives that can bring social security to those who are not covered by existing schemes. Consequently, the International Labour Office launched in 2003 the Global Campaign on Social Security and Coverage for All. The ILO Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference at its 97th Session in 2008, again reaffirmed the tripartite commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda.

2. The International Labour Conference at its 98th Session in 2009 recognized the crucial role of social protection policies in crisis response, and the Global Jobs Pact called for countries to “give consideration, as appropriate, to building adequate social protection for all, drawing on a basic social protection floor”. The High-level Plenary Meeting of the UN General Assembly on the Millennium Development Goals (MDG Summit) in September 2010 recognized that “promoting universal access to social services and providing social protection floors can make an important contribution to consolidating and achieving further development gains” and hence endorsed the Social Protection Floor Initiative which the UN Chief Executives Board had launched in 2009.

3. Regional tripartite ILO meetings in Latin America, Arab States and Asia and the Pacific during 2007 and 2008 discussed social security extension strategies. A generic two-dimensional extension strategy, combining the extension of coverage to all through nationally defined social protection floors and the progressive implementation of higher levels of social security through comprehensive systems, emerged. This strategy was endorsed by the Yaoundé Tripartite Declaration on the implementation of the Social Protection Floor adopted at the 2nd

African Decent Work Symposium in Yaoundé in 2010, and the Chair’s Summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage in 2009.

4. This consensus concerning social security is underpinned by the Decent Work Agenda, including its four pillars: employment, social dialogue, social protection and standards and fundamental principles and rights. These four pillars are inseparable, interrelated and mutually supportive. These conclusions on social security sit within this context. Sustainable social security systems are a key element in promoting productive economic growth with equity. They are closely linked to all of the elements of the Decent Work Agenda and should be based on entitlements within a legal framework. Tripartism and social dialogue based on freedom of association and the effective recognition of the right to collective bargaining are key elements to ensure adequate wages for workers thereby assisting them to increase their contributory capacity. They also contribute to the sustainability of broader social security systems in which non-contributory and contributory schemes complement each other.

**The role of and need for social security**

5. The Conference recognizes and reiterates that:

(a) Social security is a human right.

Everyone as a member of society has a right to social security as stated in the Universal Declaration of Human Rights, Article 22. Globally the large majority of women, men and children do not have access to adequate or any social security. By recognizing in the Declaration of Philadelphia the solemn obligation of the International Labour Organization “to further among the nations of the world programmes which will achieve ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care”, its member States confirmed the ILO’s commitment to achieving adequate social security for all.

(b) Social security is a social necessity.

Effective national social security systems are powerful tools to provide income security, to prevent and reduce poverty and inequality, and promote social inclusion and dignity. They are an important investment in the well-being of workers and the population at large, notably by enhancing access to health care, and providing income security

thereby facilitating access to education and reducing child labour and in particular eliminating its worst forms. Social security strengthens social cohesion and thus contributes to building social peace, inclusive societies and a fair globalization with decent standards of living for all.

- (c) Social security is an economic necessity. Full, productive and decent employment is the most important source of income security. Social protection is key to ensure a just share of the fruits of progress for all. Sustainable growth requires good health, nutrition and education, which can foster transitions from low productivity and subsistence level activities to highly productive decent jobs and from the informal to the formal economy. Social security, well designed and linked to other policies, enhances productivity, employability and supports economic development. Adequate social security encourages human capital investment for both employers and workers, enables workers to adapt to change and facilitates equitable and inclusive structural change associated with globalization. As an effective automatic stabilizer in times of crisis, social security contributes to mitigating the economic and social impact of economic downturns, to enhancing resilience, and achieving faster recovery towards inclusive growth.

#### **Social security extension strategies**

6. Many developing countries have made significant progress in extending social security coverage during the last decade. They offer the best evidence that the extension of social security is possible. Despite these advances, broad social security coverage gaps remain in many countries of the world. In some regions, the vast majority of the population is excluded from social security.
7. The risk of being excluded from coverage is particularly high among certain groups, including workers in the informal economy and atypical forms of employment, vulnerable workers in rural and urban areas, domestic workers, migrant workers, unskilled workers, and people with disabilities and chronic illnesses, including those affected by HIV and AIDS. Women tend to face higher exclusion than men, due to discrimination throughout the life cycle and the burden they usually shoulder in family and care responsibilities. Children of excluded populations are more likely to grow up in impaired states of health and nutrition that undermine their future and that of their societies.

8. Closing coverage gaps is of highest priority for equitable economic growth, social cohesion and Decent Work for all women and men. Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability contribute to achieving these objectives. These national strategies should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and are of equal importance and should be pursued simultaneously where possible.

9. The horizontal dimension should aim at the rapid implementation of national Social Protection Floors, containing basic social security guarantees that ensure that over the life cycle all in need can afford and have access to essential health care and have income security at least at a nationally defined minimum level. Social Protection Floor policies should aim at facilitating effective access to essential goods and services, promote productive economic activity and be implemented in close coordination with other policies enhancing employability, reducing informality and precariousness, creating decent jobs and promoting entrepreneurship.

10. As a one-size-fits-all approach is not appropriate, every member State should design and implement its Social Protection Floor guarantees according to national circumstances and priorities defined with the participation of social partners. While expected outcomes of these guarantees are of a universal nature, member States find different ways of implementing Social Protection Floor policies, which may include universal benefit schemes, social insurance, public employment programmes and employment support schemes, and social assistance schemes that provide benefits only to people with low income, or appropriate combinations of such measures. To be effective, these policies require an appropriate mix of preventive measures, benefits and social services.

11. The process of building comprehensive social security systems cannot stop at the ground floor of protection. Hence, the vertical dimension of the social security coverage extension strategy in each member State should seek to provide higher levels of income security and access to health care – taking into

account and progressing towards in the first instance the coverage and benefit provisions of Convention No. 102 – to as many people as possible and as soon as possible; based, as a prerequisite, on policies aiming at encouraging participation of those in the informal economy and its gradual formalization. As economies develop and become more resilient, people's income security and their access to health care should be strengthened.

12. National strategies to extend social security should progress based on the resources of the nation and a set of essential principles, i.e. universal coverage, progressive realization while providing immediate protection against discrimination, promoting gender equality, social and economic adequacy, rights-based benefits, financial and fiscal sustainability, good governance with the overall general responsibility of the State and the ongoing participation of social partners, and finally institutional and organizational questions should not prevent adequate protective outcomes. These principles should guide national policy and strategic decisions.

13. Strategies to extend social security are closely associated with employment policies. Member States should therefore pay particular attention to building an economic and social framework that is conducive to sustainable enterprise creation and growth of decent and productive employment. A large informal economy constitutes a particular challenge for the extension of social security coverage. Social insurance remains the central pillar of social security systems in most member States, yet it tends to focus on formal employees. However, a growing number of developing countries have gradually extended the scope of social insurance coverage to other categories of workers such as own-account workers, domestic workers or workers in rural areas and workers in small and micro-enterprises by adapting the scope of benefits, contributions and administrative procedures. The inclusion of these groups in social insurance is a key component of the formalization of employment and can also reduce the cost of tax-financed benefit systems for poor workers in the informal economy.

14. Member States should be encouraged to continuously employ efforts aimed at the transition from informal to formal economies. While social security policies have a strong role to play in attaining this objective, they have to be complemented by fiscal and employment policies, and by developing administrative procedures aimed to create adequate incentives to join the formal

economy and reduce the costs of formalization. Member States should be encouraged to strengthen compliance assistance, the promotion and the enforcement of legal frameworks including by adequate labour, tax and social security inspections aiming at reducing fraud, and informality including disguised employment, undeclared business and undeclared work. The formalization of the economy is one of the crucial prerequisites for long-term growth and will increase the public revenue base necessary to finance higher levels of social security for contributors and taxpayers and non-contributory benefits to cover those without capacity to contribute.

#### **Ensuring the affordability and the financing of social security**

15. The expenditure required to finance social security systems is a long-term investment in people. Societies that do not invest in social security face important costs such as those associated with the lack of a healthy and productive workforce, economic insecurity and social exclusion. On the other hand, investing in people through social security systems requires resources that have to be provided by enterprises, workers, households and others as contributors and taxpayers. It is thus essential that a rational balance is found between short- and long-term costs and benefits of social security systems for society and different groups of financers and beneficiaries.

16. Social security interventions need to achieve their objectives in terms of both social and economic adequacy in an effective and cost-efficient way. Permanent monitoring and evaluation by the social partners of the short- and long-term effectiveness and efficiency of individual programmes and social security systems, including actuarial studies, are important mechanisms and may lead to reform and adjustments whenever necessary. In the case of State operated schemes transparency, consultation and social dialogue are appropriate. In the case of schemes that involve workers and employers organizations social dialogue and agreements are usually appropriate.

17. Many member States at all levels of development have already implemented elements of a national Social Protection Floor as part of their efforts in building comprehensive social security systems. Member States have chosen different options to ensure the necessary fiscal space, including reprioritizing expenditure, and broadening the revenue base. Sustainable growth, the progressive formalization of the economy and

high levels of productive employment are essential in ensuring the financial resources necessary to extend social security to all.

18. While national Social Protection Floors should be financed from domestic sources of revenue to ensure their long-term sustainability, there may be cases where these resources are insufficient to extend the Social Protection Floor to all in a short time frame. International cooperation can play an important role in helping member States to initiate the process and build the national resource base with a view to ensuring sustainable financing mechanisms.

19. The affordability of social security systems is widely discussed in the context of demographic change. The expected increase in economic dependency ratios over the next decades raises concerns about the sustainability of social security systems. The ageing of the population will increase expenditure on pensions, health and long-term care in the decades to come. However, evidence suggests that this challenge is manageable within properly organized systems. Necessary reform processes can be successfully managed fairly balancing social needs and financial and fiscal requirements, if embedded in a well informed social dialogue process.

20. It is indispensable to create positive synergies for sustainable growth and higher levels of decent employment between social protection, financial and economic policies. Integrated national policies promoting productive employment are necessary to ensure sustainable financing, addressing possible skills shortages, promoting productivity, taking advantage of a wider diversity of the workforce in terms of sex, age, nationality and ethnic origin and facilitating a better balance between work and family responsibilities for women and men. Some of the policy options lie within the realm of social security policies proper, while others reside in other policy spheres. Such options may include:

- (a) integrating macroeconomic, employment and social policies that give priority to Decent Work;
- (b) investing social security reserves prudently;
- (c) building quality public services that enhance effective social security systems;
- (d) promoting social dialogue, the effective recognition of the right to collective bargaining and freedom of association;
- (e) promoting and strengthening the enabling environment for sustainable enterprises

reflecting employment growth and Decent Work;

- (f) investing in education, vocational skills and lifelong learning;
- (g) promoting the good governance of labour migration;
- (h) facilitating reconciliation of work and family responsibilities for women and men, and ensuring effective access to comprehensive social services to address care needs including for children, people in old age, people living with HIV and AIDS and with disabilities. This includes, maternity protection such as adequate pre and post natal care and income guarantees and other supports for women during the last weeks of pregnancy and the first weeks after delivery;
- (i) policies to enable all workers including those in atypical employment to take advantage of social security;
- (j) promoting labour force participation of women by more equitable treatment creating better employment opportunities, reducing the segmentation of the labour market between men and women, eliminating gender gaps in wages and providing equal professional development opportunities;
- (k) facilitating effective school-to-work transitions;
- (l) improving the rehabilitation of workers with reduced working capacity including personal support and training where appropriate with a view to fostering their participation in the labour market;
- (m) combining the income replacement function of social security with active labour market policies as well as assistance and incentives that promote real participation in the formal labour market.

21. Ensuring adequate labour force participation of older women and men is often essential for the adaptation of social security systems to demographic change. In addition to policies to promote full employment, measures to promote the employment of older workers may include:

- (a) investing in technologies and occupational safety and health measures that permit the productive employment of older workers and workers with health impairments and disabilities;
- (b) raising the labour force participation rates of older workers by eliminating age discrimination and providing incentives for workers and employers to address

enterprise restructuring through innovative work arrangements;

- (c) introducing socially acceptable rules through a transparent process, including social dialogue and tripartism, as to the age at which people withdraw from the labour market, which should reflect a sustainable relationship between the duration and demands of working life and retirement taking into account issues such as conditions of work, years of service and the recognition that retirement is a legitimate part of the life cycle.

#### **Social security governance**

22. Social security systems need to be well managed and administered to ensure effectiveness in reaching agreed objectives, efficiency in using resources, and transparency to gain confidence of those who finance them and benefit from these systems. Active involvement of all stakeholders, and in particular workers and employers through effective social dialogue mechanisms and tripartite supervision, is one of the important means to secure good governance of social security systems.

23. The general responsibility for an effective and efficient social security system lies with the State, particularly with creating political commitment and with respect to setting appropriate policy, legal and regulatory frameworks and the supervision that guarantee adequate benefit levels, good governance and management and protecting acquired rights of beneficiaries and other participants.

24. Collective bargaining and freedom of association play an important role in helping employers and workers negotiate on social security provisions, including for occupational and other supplementary schemes. Agreements should be in the context of a state regulatory framework.

25. Social dialogue is essential in identifying and defining priority policy objectives; the design of the corresponding benefits, entitlements and delivery methods; the allocation of the financial burden between generations and between contributors and tax payers; and the need to find a fair balance between social expectations and financial constraints.

26. Social dialogue is an important means for contributing to the permanent monitoring of financial sustainability and the social adequacy, effectiveness and efficiency of management and administration of the scheme. It is also important in enforcing the existing social security legislation so that the

contributions due are paid by all those obliged to pay and benefits delivered to all those eligible. This requires well-resourced and well-trained public inspection services to promote and ensure the law enforcement and the prevention of contribution evasion, fraud and corruption. However this also requires active monitoring by employers, workers and other stakeholders.

27. To play the expected active role in securing good social security governance, all workers and employers need to be aware of, and understand, existing social security provisions and emerging challenges. Member States should consider including basic knowledge about social security in the education and training curricula at different levels of the national education systems. Employers' and workers' organizations have to build significant capacity to be able to share the social security knowledge with their members as well as to actively participate in social dialogue on social security policies and in monitoring and supervision of social security schemes.

#### **The role of ILO standards**

28. The up-to-date ILO social security standards, and in particular Convention No. 102, provide a unique set of minimum standards for national social security systems that are internationally accepted. They set out principles that guide the design, financing, governance and monitoring of national social security systems. Convention No. 102 continues to serve as a benchmark and reference in the gradual development of comprehensive social security coverage at the national level. Several member States currently implementing successful and innovative social security extension policies have recently ratified Convention No. 102 and others have indicated their intention to do so.

29. Increasing ratification and effective implementation of Convention No. 102 and other social security Conventions remain a key priority for member States. It is therefore essential to raise awareness and understanding of ILO social security standards, to identify gaps in coverage that still may prevent further ratifications, and to design policies that may close these gaps. In particular, this should also include the dissemination of information on the requirements concerning implementation of these instruments and devote special efforts to capacity building and the training of the social partners, and thus to strengthening the role of social dialogue in the implementation of standards.

30. As also noted in the outcome of the discussion on the General Survey of 2011 on social security by the Committee on the Application of Standards, the language of certain provisions of Convention No. 102 is often interpreted as gender-biased. There is a need for a pragmatic solution that would enable its interpretation in a gender-responsive way without revising the instrument itself or weakening the prescribed levels of protection and population coverage. This may facilitate further ratifications by a number of member States.

31. In view of the renewed support for the provision of at least a basic level of social security through establishing Social Protection Floors, there is a 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. Such a Recommendation should be promotional, gender-responsive and allow for flexible implementation to be applied by all member States using different methods and according to their own needs, resources and their time frame for progressive implementation. Elements of a possible Recommendation on Social Protection Floors are outlined in the appendix to these conclusions.

#### **The role of governments and social partners**

32. Governments have the primary responsibility for ensuring effective access to social security to all. Effective social dialogue processes play a key role in contributing to the formulation, implementation and monitoring of social security policies and ensuring good governance of national social security systems.

33. Governments of member States should consider and/or undertake the following:

- (a) fully assuming their responsibility for social security by providing an appropriate policy, legal and institutional framework, effective governance and management mechanisms, including a legal framework to secure and protect the private individual information contained in their social security data systems;
- (b) fostering coherence of social security policies with employment, macroeconomic, and other social policies within a decent work framework, particularly with respect to promoting the progressive formalization of employment and providing support for productive employment;

- (c) the development of a national two-dimensional social security extension strategy, through a social dialogue-based consultation process, that identifies gaps in the desired levels of social security and seeks to close those gaps in a coordinated and planned manner over a period of time with a view to developing national Social Protection Floors and building comprehensive social security systems;
- (d) ensuring that social security policies take account of changing roles of women and men with respect to employment and care responsibilities, promote gender equality, provide maternity protection and support the empowerment of women through measures to ensure equitable outcomes for women;
- (e) ensuring that social security policies address the needs of women, men and children during all stages of the life cycle and in both urban and rural areas, and the specific needs of vulnerable groups, including indigenous people, minorities, migrant workers, people with disabilities, people living with HIV and AIDS, orphans and vulnerable children;
- (f) strengthening labour and social security inspection systems to improve compliance with social security and occupational safety and health legislation and strengthen the preventive potential of the latter through the promotion of a health and safety culture;
- (g) concluding bilateral, regional or multilateral agreements to provide equality of treatment in respect of social security, as well as access to and preservation and/or portability of social security entitlements, to migrant workers to be covered by such agreements;
- (h) ensuring the financial, fiscal and economic sustainability of social security systems through appropriate policies and different financing mechanisms, developed in consultation with or by social partners as appropriate;
- (i) balancing, with the participation of social partners, the economic and social adequacy in public and private social security schemes in the longer term;
- (j) engaging with social partners and promoting effective social dialogue to define the most appropriate national social security policies and time frames for their progressive implementation;
- (k) giving full effect to the provisions of Convention No. 102 and other up-to-date ILO social security Conventions, and

undertaking measures to ratify these Conventions;

- (l) contributing to exchange of information, experiences and expertise on social security policies and practices among member States and with the ILO.

34. Employers' and workers' organizations should consider and/or undertake the following:

- (a) raising awareness and building public support for social security among their members and the wider public, including on ILO social security standards;
- (b) actively participating in social dialogue processes aiming at the design, implementation and monitoring of national social security strategies and policies, with a view to responding to the evolving needs and capacities of workers and enterprises;
- (c) contributing to the development of innovative solutions including those which might address economic shocks, structural changes and sustainability including through collective bargaining;
- (d) participating in policy dialogue aimed at the establishment of national Social Protection Floors;
- (e) jointly developing initiatives to support the transition to formal employment and formal enterprises;
- (f) supporting the development of standards of good performance and accountability for effective and efficient and sustainable operation of the overall national social security systems;
- (g) actively participating in the governance of social security institutions in order to ensure the effective representation of protected persons and tax payers and contributors;
- (h) assisting workers and employers in their interactions with social security institutions, ensuring due contribution collection and provision of benefits;
- (i) collaborating with the Government and the ILO in promoting the ratification and effective implementation of Convention No. 102.

**The role of the ILO and follow-up**

35. The Conference calls upon the International Labour Office in the context of the Global Campaign on Social Security and Coverage for All to:

- (a) assist member States, including through Decent Work Country Programmes and appropriate technical advisory services, to support the design and implementation of national two-dimensional strategies to

extend social security coverage, including national Social Protection Floors, in the wider context of comprehensive national social and economic policy frameworks;

- (b) assist member States in designing and improving the governance, management and effective delivery systems of social security schemes, and to evaluate regularly the impact, viability and sustainability of social security policies;
- (c) further strengthen member States' capacities to design, implement and monitor social security systems that are responsive to challenges including changing demographic trends and migration and assuring their proper functioning;
- (d) support the establishment of bilateral and multilateral agreements to provide social security to migrant workers and their families;
- (e) strengthen the ILO's leading role in the promotion of the Social Protection Floor at both the international and national level with the participation of constituents and in partnership with other international organizations;
- (f) support the development of macroeconomic frameworks and policies, including activation measures, which are conducive to the creation of quality employment and sustainable and effective social security systems;
- (g) support member States in formulating and implementing, in consultation with employers' and workers' organizations, national policies aimed at facilitating progressive transition from the informal to the formal economy;
- (h) promote, at the national and international level, social dialogue and the role of social partners in the design, governance and implementation of comprehensive and sustainable social security for all;
- (i) devote special efforts to capacity building and the training of the social partners on ILO social security standards, thus strengthening the role of social dialogue in ways the standards are implemented;
- (j) strengthen the capacities of social partners to engage in policy dialogue, and social security governance at the national level through the further development of appropriate training programmes, technical assistance and other means;
- (k) expand the assistance to constituents in enhancing awareness and understanding of ILO social security standards and their implementation, designing policies to

overcome obstacles to ratification and undertaking innovative initiatives for promoting up-to-date ILO Conventions on social security, notably Convention No. 102;

- (l) develop in cooperation with ILO constituents a social security good practices guide that provides member States with practical guidance and benchmarks to evaluate and enhance their national social protection provisions, including general and financial social security management, benefit design and good governance;
- (m) strengthen the International Labour Office's research capacities, particularly with regard to analysing national social security policies and practices, developing tools for the assessment of performance, and producing reliable statistics, and ensuring its high quality and visibility with the view to helping governments and social partners make informed decisions;
- (n) facilitate the exchange of experiences and good practices, the transfer of knowledge and by mutual agreement, the transfer of technologies among member States including the promotion of South–South and triangular exchange of experiences and expertise;
- (o) facilitate the implementation of the ILO's mandate on social protection by improving international policy coherence, effectiveness and efficiency including by coordinating its programmes and activities and deepening the collaboration with the UN system, the IMF, the World Bank, regional development banks, the OECD, the European Commission and other regional organizations, the ISSA and civil society organizations. This collaboration is crucial at national level through country-led initiatives;
- (p) strengthen cooperation with ISSA and other national and international social security associations, and their member organizations, with regard to sharing information and mobilizing expertise to support the ILO's technical operations;
- (q) proactively and consistently mainstream gender in all the above activities in order to promote gender equality.

36. The Conference requests the Director-General to take into account these conclusions in preparing future programme and budget proposals and facilitating extra-budgetary sources, including Regular Budget Supplementary Accounts.

37. The Conference invites the Governing Body to place the discussion on the possible Recommendation mentioned in paragraph 31

on the agenda of the 101st Session of the International Labour Conference in 2012.

38. The Conference invites the Governing Body to consider, in light of the resolution concerning gender equality and the use of language in legal texts of the ILO, the question of gender-sensitive language in ILO social security standards and report to the Conference at a later session.

39. The Conference requests the Director-General to prepare a plan of action for the implementation of the other recommendations of these conclusions and of the outcome of the discussions of the Committee of the Applications of Standards, and requests the Governing Body to consider that plan in its 312th Session in November 2011.

## APPENDIX

### Elements of a possible Recommendation on Social Protection Floors

#### 1. General context

A1. Everyone as a member of society has the right to social security as stated in the Universal Declaration of Human Rights, Article 22.

22. Social security is a social and economic necessity, a prerequisite of social and economic development, and an element of Decent Work for all women and men. It can make a major contribution to the achievement of the Millennium Development Goals and targets.

#### 2. Objective

A2. The Recommendation would focus on the extension of coverage to wider groups of the population (horizontal extension of coverage), and thereby supporting the implementation of national Social Protection Floors. With respect to progressively ensuring higher levels of protection (vertical extension of coverage), the Recommendation would encourage member States to ratify and those that have ratified to ensure the effective implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and other up-to-date ILO social security Conventions.

A3. The objective of the Recommendation would be to provide guidance to member States to develop a social security extension strategy compatible with, and supportive of, wider national social, economic and employment policy strategies and seek in particular to contribute to poverty reduction and the formalization of informal employment.

#### 3. Principles for the implementation

A4. The extension of social security should be country-led and responsive to national needs, priorities and resources. In order to support

member States in this task, the Recommendation would specify a number of principles for the design and implementation of national social security extension strategies in line with the conclusions of this Committee.

#### 4. Scope of the instrument

A5. The Recommendation should encourage member States to design, through an effective national social dialogue process, a social security strategy that identifies gaps in the achievement of nationally pursued levels of protection and seeks to close those gaps and build a comprehensive social security system in a coordinated and planned manner over a period of time giving due regard to the workers in the informal economy.

A6. The horizontal dimension of the social security extension strategy should prioritize the implementation of a national Social Protection Floor, consisting of four basic social security guarantees, i.e. nationally-defined minimum levels of income security during childhood, working age and old age, as well as affordable access to essential health care. These guarantees set the minimum levels of protection that all members of a society should be entitled to in case of need. Focusing on

outcomes achieved, these guarantees do not prescribe specific forms of benefits, financing mechanisms or the organization of benefit delivery.

A7. The Recommendation could encourage member States to close coverage gaps of populations with contributory capacity through contributory schemes. It would encourage member States to ratify up-to-date ILO social security Conventions as early as possible in national social and economic development processes, and to ensure their effective implementation.

A8. The Recommendation should encourage member States to establish appropriate mechanisms to monitor the extension of social security and the implementation of their national basic social security guarantees. It could also invite member States to establish mechanisms, based on effective national social dialogue, to further extend social security coverage on the basis of Convention No. 102 and other up-to-date conventions and build comprehensive social security systems in line with national social needs, and economic and fiscal capacities.

### Resolution concerning efforts to make social protection floors a national reality worldwide, International Labour Conference, 101st Session, 2012

The General Conference of the International Labour Organization, meeting at its 101st Session, 2012,

Having adopted the Social Protection Floors Recommendation, 2012,

Recognizing the crucial role of social protection in social and economic development and notably in combating poverty, vulnerability, social exclusion and realizing decent work for all,

1. Invites governments, employers and workers jointly to give full effect to the Social Protection Floors Recommendation as soon as national circumstances permit;

2. Invites the Governing Body of the International Labour Office to request the Director-General to implement, subject to the availability of resources, cost-effective measures aimed at:

- (a) promoting, through appropriate awareness-raising initiatives, the widespread implementation of the Recommendation;
- (b) building the capacity of governments and employers' and workers' organizations to enable them to design, implement, monitor

and evaluate national social protection floor policies and programmes;

- (c) supporting governments and employers' and workers' organizations in their efforts to implement national social protection floors through:
  - the facilitation of sharing of knowledge, information and good practices on social protection among Members; and
  - technical cooperation and advice;
- (d) supporting national dialogue processes on the design and implementation of national social protection floors; and
- (e) intensifying cooperation and coordination of support to Members with other relevant international organizations and employers' and workers' organizations, as well as with other relevant and representative organizations of persons concerned, for the development of national social protection strategies.

## **Resolution and conclusions on employment and social protection in the new demographic context, International Labour Conference, 102nd Session, 2013**

### **Resolution concerning employment and social protection in the new demographic**

The General Conference of the International Labour Organization, meeting at its 102nd Session, 2013,

Having undertaken a general discussion on the basis of Report IV, Employment and social protection in the new demographic context,

Recognizing that demographic transitions have major implications for labour markets and social protection systems,

Affirming that coherent and integrated employment promotion and social protection policies that build on the virtuous cycle of employment, social protection and development are crucial to address the demographic challenge,

1. Adopts the following conclusions; and
2. Invites the Governing Body of the International Labour Office to give due consideration to them in planning future work and to request the Director General to take them into account when preparing future programme and budget proposals and to give effect to them, to the extent possible, when implementing the Programme and Budget for the 2014–15 biennium.

### **Conclusions on employment and social protection in the new demographic context**

#### **I. DEMOGRAPHIC TRANSITIONS AND THEIR CHALLENGES**

1. Demographic change, including population ageing, is a universal trend in all countries and regions, although demographic transitions take place at different paces and over different time horizons. The human development index, in particular the life expectancy component, provides a benchmark. Living longer and healthier lives is one of the most important achievements of human development, while it should be acknowledged that there is still much work to be done to ensure that everyone benefits.
2. The world's population is growing and ageing. By 2050, it is expected to have surpassed 9 billion and the population aged 60 years and over will have tripled. Three-quarters of the world's older population are

expected to be living in developing countries. The majority of older people are women. Old-age dependency is on the rise: in 2000, there were nine persons of working age for every person over 65; by 2050, there will be only four.

3. Countries and regions at different stages of demographic transition face different challenges and therefore different levels of urgency are attached to aspects of ageing, youth employment and the impact of HIV/AIDS.

4. The new demographic context has profound implications for the labour force and for labour market dynamics, social security systems, employment and economic development.

5. Over the next decade, it is estimated that there will be 420 million more people in the labour force than today. Labour force growth is anticipated to be particularly strong in developing countries, where the majority of people currently work in the informal economy. In contrast, working-age population growth will stagnate or even decline in many developed countries. Globally, it will be necessary therefore to create more than 600 million jobs to integrate the 197 million currently unemployed (73 million of whom are young people) and newcomers to the labour market.

6. Only about 20 per cent of the world's working-age population is estimated to have effective access to comprehensive social protection. In developing countries, 342 million older people lack adequate income security and, if nothing is done, the number could rise to 1.2 billion by 2050. Food security, nutrition and access to safe drinking water and sanitation are dire problems for many families without sufficient income security. Older people often have to maintain their economic activity to survive and earn a living.

7. Increasing formal employment and labour force participation rates is essential to meeting social protection and economic development needs. However, informal employment and other forms of inadequately protected work remain pervasive for large segments of the labour force and the transition to decent work is slow and difficult.

This also puts at risk access to social security.

8. For many countries, the global economic crisis, subsequent adjustment measures and the slowdown in growth continue to impact labour markets and social security systems, affecting the social fabric and economic sustainability. In some countries, high levels of unemployment, a growing proportion of youth who are neither in employment nor in education or training, job insecurity, growing inequalities, an increasingly uncertain environment for enterprises, increasing demand for social protection and the weakening of social dialogue add to the challenges caused by the demographic transition. The crisis is exerting pressure on public finance and debt. It puts at risk achievements in social protection and complicates needed reforms. In other countries, public policies have managed to reconcile economic growth, employment and redistribution of wealth, generating a virtuous cycle based on comprehensive social protection systems.

## II. GUIDING PRINCIPLES AND POLICIES

9. Effective policies are necessary to tackle the challenges of demographic transitions. The wide range of ILO standards relevant to the context of demographic change provide policy guidance. The following provide further guidance:

- (a) A comprehensive multidimensional and integrated policy mix that recognizes the interdependency between demographic shifts, employment, labour migration, social protection and economic development.
- (b) Guided by the fundamental principles and rights at work of the ILO and pursuing the objective of decent work over the life cycle, policies will be context specific, taking into account the diversity of country situations, including demographic structures, economic development, legal frameworks, labour market needs, social security systems, and fiscal space.
- (c) Integrated and coherent approaches to training linked to labour market needs, education, employment promotion and social protection policies that promote the virtuous cycle of employment, social protection, productivity, inclusive growth and development.
- (d) A long-term vision that spans the life cycle and promotes personal responsibility, shared responsibility of the tripartite partners and solidarity among generations and population groups.

- (e) Innovative policy packages responsive to change.
- (f) Effective and efficient social dialogue and collective bargaining in accordance with national policies and practices based on mutual trust and respect.
- (g) Preventing and combating age discrimination.
- (h) Promoting gender equality throughout the life cycle.
- (i) Promoting the inclusion of workers with disabilities.
- (j) Good governance based on accountability and transparency.
- (k) Promoting employability and labour force participation by creating an enabling policy environment conducive to sustainable enterprises and job rich growth.
- (l) Effective youth employment and training schemes.
- (m) The right to social security is a human right.
- (n) Provision of essential health care and long-term care.
- (o) The strengthening of tripartite efforts for the effective elimination of child labour.

## III. A COMPREHENSIVE POLICY MIX

10. It is the primary responsibility of the State to implement policies to tackle effectively the challenges of demographic transitions. With the right combination of policies and with the commitment and action of relevant stakeholders, demographic transitions not only become manageable and sustainable but can be turned into opportunities.

11. Employment and social protection policies should be developed in such a manner as to reinforce one another in response to the specificities and diverse employment, income patterns and needs of the population. Social protection should be viewed as a long-term investment, providing stabilization and offering social and economic returns over time.

12. Employment-centred economic policies and development strategies are needed to generate decent and productive jobs for all working-age groups, a fair distribution of income, and increase the overall level of employment. These include pro-employment macroeconomic and regulatory frameworks that promote public and private investments, an enabling environment for sustainable enterprises, skills development, entrepreneurship and active labour market policies. The Employment Policy Convention, 1964 (No. 122), Human Resources Development Recommendation, 2004 (No. 195), and Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189),

and other relevant standards provide guiding frameworks.

13. Serious consideration should be given by member States to the implementation of the multi-pronged policy portfolio included in the ILO Call for Action on the youth employment crisis (2012).

14. Well-managed migration policies taking into account the ILO Multilateral Framework on Labour Migration can contribute to mitigating labour and skills shortages, promoting the rights of migrant workers and addressing challenges such as brain drain.

15. Collective bargaining and minimum wage setting in accordance with national policies and practices can ensure a fair income distribution in society, including closing the gender pay gap, and improve the contributory capacity.

16. Comprehensive, adequate and sustainable social security systems should be established and maintained. As a matter of priority, national social protection floors are needed to guarantee that all persons have access to education, essential health care and basic income security. In accordance with the Social Protection Floors Recommendation, 2012 (No. 202), higher levels of social security should be progressively ensured to as many people as possible.

17. The Social Security (Minimum Standards) Convention, 1952 (No. 102), and Social Protection Floors Recommendation, 2012 (No. 202), as well as other ILO social security standards, provide an international reference framework for the establishment of comprehensive social security systems that ensure protection throughout the life cycle. They also contain principles crucial for ensuring the sustainability of social security systems and the adequacy of benefits.

18. Labour markets need to function in a way that allows for adjustments to changing circumstances, recognizing that all parties have legitimate interests. This should occur in an enabling framework that provides workers the stability and security to engage positively in change and provides employers with the necessary flexibility to be competitive and innovative.

19. Policies to increase productivity can compensate for shrinking labour forces in ageing societies, and can boost development in all countries. Such policies include, among others:

- Education, training and lifelong learning.
- Social protection, including effective access to public health and social services.

- Improved working conditions and sound occupational safety and health.

- Non-discriminatory practices that embrace diversity and sensitivity in relation to age, gender and disabilities.

- Frameworks for work practices conducive to improvements in productivity.

- Policies that support innovation.

20. Skills mismatches and skills shortages are a common challenge across countries and development stages. Skills policies are therefore an essential part of the policy mix.

21. Governments, employers and workers should work together to increase lifelong learning opportunities to foster employability and productivity and to prevent skills obsolescence. Measures could include:

- Upgrading skills in the use of new technologies.

- Removing age limits in access to learning and training.

- Providing and viewing training as an integral part of career planning.

- Supporting a conducive environment for learning and development, for example through mixed-age teams and mentoring.

22. Targeted policies are necessary to increase the labour force participation of vulnerable and/or under-represented groups. Policies for family support, work–life balance, childcare and old-age care facilities, maternity protection, paternity and family responsibility-related leave, flexible working time and home work are possible options. These options can also increase overall labour force participation. Increasing the labour market participation of older workers is of great importance and can benefit from tripartite efforts to agree on measures and incentives that enable employers to provide more jobs for older workers and workers to stay in employment until they reach their retirement.

23. Policy measures to address the plight of workers in the informal economy and to facilitate multiple pathways for transition from informal to formal, decent and productive work are a priority in the new demographic context, including by extending social security.

24. In many countries, ageing is leading to increasing pension costs. There is a need to ensure the financial, fiscal and economic sustainability of pension systems through appropriate and well-designed policies, financing mechanisms and enforcement measures. They should be complemented by access to affordable, quality public health and social services. Policies should strive to ensure the adequacy and the predictability of pensions and a gradual and flexible transition

from active working life to retirement through measures such as phased-in retirement, part-time work and job-sharing.

25. In reforming social security pension systems, countries often face difficult choices among available options but should always pay attention to the related social outcomes. The best choice for each country will take into account accrued pension-scheme rights, be based on inter-generational fairness and solidarity and be founded on well-informed consultation, substantive dialogue and shared responsibility among social partners. For some countries, the choice might include effective increase of pension age. If so, transitional implications for workers, particularly those close to retirement, must be addressed on a fair basis, respecting workers' and employers' interests. When such a reform involves a delay in retirement age, there will be specific concerns and opportunities for employers, workers and society. Such reforms must recognize that some workers or groups of workers have reduced capacities and life expectancies, notably those who spend their lives in arduous or hazardous occupations. It should be a matter of choice for a worker to delay retirement. The employment of older workers may be beneficial for workers and employers alike. Health and related issues should be addressed.

26. Policies to combat discrimination based on age and practices of diversity and age sensitivity are central to human dignity and to increasing productivity. They could include:

- Promoting, enforcing and/or enacting employment legislation that combats discrimination on the basis of age.
- Awareness-raising campaigns conducted by governments, social partners and the media to combat negative attitudes about older persons and to increase appreciation of their value to society.
- Enterprise-level initiatives such as company-run diversity programmes.

27. Measures that foster preventive health and safety at the workplace and healthy lifestyles should be promoted throughout the life cycle including, but not limited to, the development of occupational safety and health legislation with appropriate compliance mechanisms, and taking into account age-, gender- and disability-specific health and workplace needs.

28. Policies to provide for flexibility in working time and work organization according to needs specific to age groups, gender and disability, while maintaining adequate social security coverage, should be considered. Collective bargaining in accordance with national law and

practice can facilitate the introduction of these policies.

29. Demographic transitions increase demand for the care sector. The promotion of this sector and its long-term sustainability is essential to protect people and to ensure that they live and age in dignity. The care sector also presents new opportunities for investment, innovation and job creation. Good management of the sector is necessary to ensure the provision of quality care. Professionalization of the delivery of care should be promoted.

30. Traditional care systems, which rely heavily on female family members to bear the main burden of providing care services, are under increasing strain. The provision of care requires the recognition of the complementary and fundamental roles of family, community and professional care services. Care structures need to be developed that address the diverse demand for care services. Accreditation and regulation of professional care services should be promoted.

31. The right of care workers to decent work should be promoted, including by improving working conditions, skills development and recognition and promoting gender equality.

32. Through a variety of means, such as the effective enforcement of tax and contribution obligations, including measures to prevent tax evasion, the resources necessary to effectively implement the policy mix can be mobilized.

#### **IV. TRIPARTISM AND SOCIAL DIALOGUE**

33. Social dialogue in all its forms is necessary to finding effective, equitable and sustainable answers to demographic challenges and can offer a key contribution to inclusive, sustainable growth and development. Necessary reform processes can be best managed through social dialogue to balance employment, social protection and related financial and fiscal requirements.

34. Collective bargaining, based on freedom of association and mutual trust and respect, is an important tool for the development of specific collective agreements to meet the challenge of demographic change at different levels.

#### **V. ACTION BY THE OFFICE**

35. The ILO has an important role to play in providing global leadership and acting as a centre of excellence on demographic change and its implications for the world of work. With due regard to approved budgets, the Office should support actions by governments and social partners and work with the multilateral system in the following areas:

- (a) Technical cooperation, including capacity building to support:
  - (i) Development of integrated national action plans on demographic change.
  - (ii) Development of labour market information systems, identification and forecasting of skills needs and monitoring and evaluation mechanisms.
  - (iii) Mainstreaming of responses to demographic challenges in all relevant national employment and social protection policies, in particular to implement the ILO Call for Action on the youth employment crisis (2012) and the Social Protection Floors Recommendation, 2012 (No. 202).
  - (iv) Strengthening of the capacity of governments, employers' and workers' organizations, and social security institutions to better address demographic challenges and to develop holistic policies, including through social dialogue and tripartism.
  - (v) Strengthening of employment services and the delivery of targeted active labour market policies for young people, women, older people and persons with disabilities.
  - (vi) Development of well-managed labour migration policies and their implementation.
  - (vii) Facilitation of transitions from the informal economy to formality, taking into account the standard-setting discussions at the International Labour Conference in 2014 and 2015 on this matter.
  - (viii) Awareness-raising on and promotion of the implementation of relevant ILO standards.
  - (ix) Requisite training at different levels.
- (b) Knowledge development, dissemination and follow-up:
  - (i) Undertake research and evidence-based comparative policy analysis on the interaction between employment and social protection policies at the micro and macro levels.
  - (ii) Map and analyse good practices and facilitate their dissemination.
  - (iii) Over the next 12 months, develop a research agenda on the care sector, including an evidence-based analysis of the potential gaps in current international labour standards for the consideration of the Governing Body.
- (c) Partnerships and advocacy:
  - (i) Promote, in partnership with the relevant global, international and regional organizations and institutions, the integrated, intergenerational life-cycle approach, notably in the context of the Post2015 Development Agenda.
  - (ii) Strengthen partnerships with the United Nations and other relevant global, international and regional organizations with respect to the follow-up to the Madrid International Plan of Action on Ageing, adopted at the Second World Assembly on Ageing in April 2002, and its regional implementation strategies.

## Resolution on Advancing Social Justice through Decent Work, 2016

### EVALUATION OF THE IMPACT OF THE ILO DECLARATION ON SOCIAL JUSTICE FOR A FAIR GLOBALIZATION AND CONCLUSIONS FOR FUTURE ACTION

The General Conference of the International Labour Organization, meeting at its 105th Session, 2016,

Having undertaken an evaluation of the impact of the ILO Declaration on Social Justice for a Fair Globalization, adopted in 2008,

Adopts the following resolution.

#### I. SIGNIFICANCE OF THE SOCIAL JUSTICE DECLARATION

1. In unanimously adopting the ILO Declaration on Social Justice for a Fair Globalization

(the Social Justice Declaration) in 2008, the International Labour Organization and its Members confirmed that their commitment and efforts to implement the ILO's constitutional mandate and to place full and productive employment and decent work at the centre of economic and social policies should be based on the four inseparable, interrelated and mutually supportive strategic objectives of employment, social protection, social dialogue and tripartism, and fundamental principles and rights at work, with gender equality and non-discrimination also as cross-cutting issues. The Social Justice Declaration provides an important framework for better governance and policy making.

2. The Social Justice Declaration is more relevant today than ever to address global, regional and national challenges and to have a decisive impact on the implementation of the 2030 Agenda for Sustainable Development (2030 Agenda). This evaluation of the Social Justice Declaration should: (i) inform the ILO actions in pursuit of its centenary initiatives leading up to, and beyond, the 100th Anniversary of the ILO in 2019; (ii) encourage Members' endeavours to achieve the full potential of the Social Justice Declaration; and (iii) guide the ILO and its Members in responding to the urgent call for a full and active role in the 2030 Agenda.

## II. IMPACT OF THE SOCIAL JUSTICE DECLARATION

3. Decent work is now widely recognized as a global goal. The Social Justice Declaration has served as a reference point for Members and as an organizing framework for the ILO to provide support to its Members. It has underpinned a continued commitment of the ILO to reform in order to better support its Members. It offers a framework for effective action and policy coherence, coordination and collaboration for decent work between the ILO and relevant national, regional and international institutions.

4. Members have fully endorsed the Social Justice Declaration and taken various steps to promote decent work both individually and in cooperation with each other, including through development partnerships. A growing number of member States have adopted Decent Work Country Programmes.

5. The Social Justice Declaration informed the Global Jobs Pact (2009), which remains a useful policy framework for addressing the social and employment impact of the recent economic and financial crisis. Through the follow-up to the Social Justice Declaration, the Conference has adopted the Social Protection Floors Recommendation, 2012 (No. 202), the Protocol of 2014 to the Forced Labour Convention, 1930, and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

6. At the same time, achieving policy coherence in implementing the Decent Work Agenda is still a challenge in many parts of the world. Members have faced complex choices in prioritizing their efforts to advance decent work in an integrated way. More work is needed to improve the implementation and ratification of standards, facilitate the transition from the informal to the formal economy, raise awareness and promote a better understanding of the Social Justice Declaration as an in-

strument to guide future action, including policy making, by Members individually and in cooperation with each other, and foster ownership by constituents.

7. Reforms of the Conference and the Governing Body have improved the Organization's governance, policy-making and oversight functions. The ILO is enhancing its work on standards policy, notably through the Standards Initiative, and it has implemented a scheme of recurrent discussions of each of the strategic objectives at the Conference.

8. However, recurrent discussions need to be improved to achieve a better understanding of the diverse realities and needs of Members and to realize their value as a tool for assessing implementation of the Social Justice Declaration and for informing future action. In addition, there has been limited progress in establishing and making use of appropriate indicators to monitor progress towards decent work.

9. Decent Work Country Programmes have proven a useful tool and more Members should be encouraged to adopt them. However, more needs to be done to make them better focused, prioritized and grounded in the specific realities and challenges faced by Members. All Decent Work Country Programmes should be determined and owned by constituents; reflect their diverse national needs and priorities; and include balanced strategies integrating all four strategic objectives and gender equality and non-discrimination also as cross-cutting issues.

10. A number of steps have been taken to translate the integrated approach into the work of the Office. Progress has been made to enhance evidence-based research and policy analysis to assist Members in pursuing the aims of the Social Justice Declaration in their specific national circumstances.

11. The Social Justice Declaration has helped to increase policy coherence, coordination and collaboration among the ILO, other United Nations agencies and the multilateral economic institutions, but challenges remain. The promotion of the Decent Work Agenda within international and regional institutions needs to be furthered through institutional partnerships and collaboration mechanisms. Collaboration with international and regional organizations and other actors should be improved in order to foster comprehensive and coordinated policies and strategies to promote all the strategic objectives and to leverage their contribution to decent work. Translating high level commitments effectively into policies and programmes at the regional and country level continues to be a challenge.

### III. PRIORITY AREAS FOR ACTION

#### *A. Principles and policies to achieve the full potential of the Social Justice Declaration*

12. Further concrete action is needed to achieve the full potential of the Social Justice Declaration, with due attention to advancing decent work in the framework of the implementation of the 2030 Agenda, in particular by integrating decent work into national sustainable development strategies.

13. In the changing world of work, given the rapidity of technological, societal, demographic, economic and environmental changes, Members' efforts to reach the inseparable, interrelated and mutually supportive strategic objectives of decent work should be based on the urgent need to promote:

- (a) employment by creating an enabling institutional and economic environment for productive, profitable and sustainable enterprises, together with a strong social economy and a viable public sector, to foster inclusive growth, employment and income opportunities;
- (b) social protection – social security and labour protection – to ensure a just share of the fruits of progress for all;
- (c) social dialogue and tripartism as crucial means for the effective achievement of the four strategic objectives at national, regional and international levels;
- (d) the universal and immutable fundamental principles and rights at work and their particular significance both as rights and enabling conditions, in particular freedom of association and collective bargaining;
- (e) gender equality and non-discrimination also as cross-cutting issues in the four strategic objectives;
- (f) greater ownership, policy coherence and complementarity of national, regional and international approaches to the full implementation of the Social Justice Declaration and the 2030 Agenda; and
- (g) cooperation among Members, as well as between Members and international organizations, on sharing national and regional good practices gained from the successful implementation of initiatives with a decent work element.

14. In order to reach the full potential of the Social Justice Declaration, the implementation of the four strategic objectives should be adapted to the specific needs and circumstances of each country, and subject to its existing international obligations and the fundamental principles and rights at work.

#### *B. ILO action to effectively assist its Members*

15. In order to effectively assist its Members in their efforts to achieve the full potential of the Social Justice Declaration, the Conference calls upon the ILO to make the best use of all its means of action to:

##### **15.1. Standards system**

Ensure that there are appropriate and effective linkages between the recurrent discussions and the outcomes of the Standards Initiative, including exploring options for making better use of article 19, paragraphs 5(e) and 6(d), of the ILO Constitution, without increasing the reporting obligations of member States.

##### **15.2. Recurrent discussions**

- (a) Adopt appropriate modalities to better focus recurrent discussions and ensure that they are grounded in current realities and challenges so as to:
  - (i) deliver a regularly updated review of Members' diverse needs and realities with respect to each strategic objective;
  - (ii) assess the results of the ILO's activities in respect of the strategic objectives to facilitate decision making on future priorities; and
  - (iii) inform ILO strategic planning and programme and budget discussions.
- (b) Adopt modalities to ensure that general surveys and the related discussion by the Committee on the Application of Standards contribute to the recurrent discussions as appropriate.
- (c) Examine the possibility of a shorter cycle of recurrent discussions of each of the four strategic objectives, taking into account the:
  - (i) specific requirements pertaining to the examination of each strategic objective;
  - (ii) two-year programme and budget cycle and the four-year strategic plan;
  - (iii) contribution of the recurrent discussions to the streamlining of the process of setting the Conference agenda;
  - (iv) past practice of separately addressing labour protection and social security on the Conference agenda;
  - (v) possible grouping of strategic objectives when placed on the Conference agenda;
  - (vi) timing of the next evaluation of the impact of the Social Justice Declaration; and

- (vii) ILO's contribution to the follow-up and review by the United Nations of the implementation of the 2030 Agenda.

**15.3. Strengthening the results-based framework and Decent Work Country Programmes**

- (a) Develop the Strategic Plan for 2018–21 based on the integrated approach to decent work covering all four strategic objectives and the cross-cutting issues. Its implementation should be based on constituents' priorities and specific needs, make the best use of all the ILO's means of action and support the capacity development of constituents.
- (b) Review the programme and budget results framework, including indicators and the reporting on outcomes, good practices and lessons learned, to allow the ILO to assess results and to demonstrate to its constituents how its work has contributed to the realization of the four strategic objectives.
- (c) Strengthen the ILO's evaluation and institutional learning in order to demonstrate impact and improve delivery to constituents.
- (d) Ensure that all Decent Work Country Programmes comprise integrated and balanced strategies to promote all the strategic objectives and the cross-cutting issues in a set of priorities identified by national tripartite constituents; contain measurable, realistic and achievable outcomes; and should have tripartite steering committees or similar fora to ensure ownership and increase impact.
- (e) Support Members to better align Decent Work Country Programmes with national and, where appropriate, regional sustainable development strategies that integrate the 2030 Agenda and its decent work components, as well as with United Nations planning frameworks at the country or, where appropriate, regional level.

**15.4. Institutional capacity building**

- (a) Further strengthen the institutional capacity of member States and representative organizations of employers and workers according to their needs, to pursue relevant, effective and coherent social policy for decent work and sustainable development.
- (b) Strengthen the awareness, understanding and capacity of constituents – including through the International Training Centre of the ILO in Turin, regional and online programmes – to achieve the aims of the

Social Justice Declaration, and measure and monitor the results of such capacity development efforts in a systematic and coherent manner.

- (c) Strengthen and streamline its development cooperation and expert advice to support and assist efforts by Members to make progress on a tripartite basis towards all the strategic objectives.

**15.5. Research, information collection and sharing**

- (a) Continue to strengthen its policy-oriented and evidence-based research, taking into account the needs of ILO's constituents, to support informed policy dialogue, with particular attention to the challenges and opportunities associated with trends and drivers transforming the world of work.
- (b) Strengthen the knowledge base to improve understanding of the contribution of the integrated approach to decent work for sustainable development.
- (c) Further enhance Members' capacity to produce, use and share statistics and information covering all four strategic objectives, as well as gender equality and non-discrimination as cross-cutting issues, and information on best practices, including through voluntary national peer reviews.
- (d) Further develop, through the Governing Body, a framework for decent work indicators that allows Members to measure their progress towards decent work according to their national needs and circumstances.
- (e) Assist Members' efforts to use decent work indicators that are appropriate to national needs and circumstances in order to monitor and evaluate progress made.

**15.6. Partnerships and policy coherence for decent work**

- (a) Develop a strategy for promoting decent work through partnerships and policy coherence based on the principles of complementarity and mutual reinforcement with relevant international, regional and national organizations that have mandates in closely related fields. In all such partnerships the ILO should promote understanding and recognition of its values, mandate and standards.
- (b) Include in such a strategy a special focus on promoting inclusive growth and decent work at the country level with international and regional economic and financial institutions.

- (c) Strengthen the ILO's capacity and that of its constituents to contribute to the achievement of decent work and related goals of the 2030 Agenda at the national, regional and international levels, based on the integrated approach of the Social Justice Declaration.
- (d) Foster policy coherence by offering evidence-based policy advice and closely working with relevant government ministries and departments, and by facilitating the participation of the tripartite constituents in national sustainable development strategies and related United Nations planning frameworks.
- (e) Lead or engage in alliances related to Goal 8 (Note 1: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.) as well as other decent work-related goals of the 2030 Agenda with the involvement of the tripartite partners consistent with the resolution concerning tripartism and social dialogue (2002), and within the framework of the Social Justice Declaration.
- (f) Contribute to the follow-up and review framework of the 2030 Agenda through inputs concerning decent work trends and indicators to national, regional and global reports that will feed into the annual reviews by the United Nations High-Level Political Forum on Sustainable Development.
- (g) In the context of the Enterprises Initiative, and welcoming the recent growth in ILO public-private partnerships, further develop its engagement with the private sector, taking into account the guidance provided by the Governing Body at its 326th Session (March 2016) as well as the Conference Conclusions concerning the promotion of sustainable enterprises (2007), the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and the Conference Conclusions concerning small and medium-sized enterprises and decent work and productive employment creation (2015).
- (h) Promote strategic partnerships with relevant non-state actors consistent with the principles of tripartism and social dialogue.
- (i) Promote the implementation of Goal 17 (Note 2: Strengthen the means of implementation and revitalize the global partnership for sustainable development.) of

the 2030 Agenda and its complementarity with the ILO Development Cooperation Strategy.

- (j) Attract additional resources for the implementation of the Social Justice Declaration, further diversify funding sources, promote South-South and triangular cooperation, and enhance the integrated pursuit of the four strategic objectives through larger development projects and programmes.

#### *C. Action by member States*

16. The Conference calls upon member States to take appropriate action in the context of national circumstances to:

- (a) mainstream the Decent Work Agenda in the implementation of the 2030 Agenda, including in national and regional strategies for sustainable development;
- (b) step up action with a view to achieving progressively the ratification and implementation of the fundamental and governance Conventions;
- (c) promote policy coherence across ministries and integrate decent work into national policies. These efforts could include, where appropriate, effective consultations among concerned ministries and with social partners; and
- (d) promote sustainable enterprises.

#### **IV. FOLLOW-UP BY THE GOVERNING BODY AND THE DIRECTOR-GENERAL OF THE INTERNATIONAL LABOUR OFFICE**

17. The Conference invites the Governing Body of the International Labour Office to:

- (a) determine appropriate modalities to integrate the outcome of the present evaluation into the work of the Governing Body and the programme of work of the International Labour Office;
- (b) consider the possibility of convening a high-level tripartite exchange on the role of decent work in the 2030 Agenda and the ILO's leadership on decent work related goals;
- (c) request the Director-General of the International Labour Office to:
  - (i) take into account the outcome of the present evaluation in the proposal for the Strategic Plan for 2018–21;
  - (ii) submit to the Governing Body, in November 2016, detailed proposals relating to the modalities of recurrent discussions as outlined in subparagraph 15.2, with a view to better meeting their objectives and to ensure a

- prompt transition from the current cycle of recurrent discussions to the next cycle;
- (iii) submit to the Governing Body, in March 2017, proposals for a programme of work to give effect to the outcome of the present evaluation, including specific deadlines and appropriate measurable targets and indicators; and
  - (iv) communicate to the United Nations High-Level Political Forum on Sustainable Development, at its meeting in

July 2016, and to relevant international and regional organizations and fora, the elements of the present resolution that are of particular relevance for the implementation of the components of the 2030 Agenda relating to the achievement of decent work.

18. The Conference decides that the action outlined in the present resolution will form an integral part of the next evaluation of the impact of the Social Justice Declaration to be undertaken by the Conference.

## ILO Centenary Declaration for the Future of Work, International Labour Conference, 108th Session, 2019

The International Labour Conference, meeting in Geneva at its One Hundred and Eighth Session on the occasion of the Centenary of the International Labour Organization (ILO),

*Considering* that the experience of the past century has confirmed that the continuous and concerted action of governments and representatives of employers and workers is essential to the achievement of social justice, democracy and the promotion of universal and lasting peace;

*Acknowledging* that such action has brought historic advances in economic and social progress that have resulted in more humane conditions of work;

*Considering* also that persistent poverty, inequalities and injustices, conflict, disasters and other humanitarian emergencies in many parts of the world constitute a threat to those advances and to securing shared prosperity and decent work for all;

*Recalling* and reaffirming the aims, purposes, principles and mandate set out in the ILO Constitution and the Declaration of Philadelphia (1944);

*Underlining* the importance of the ILO Declaration on Fundamental Principles and Rights at Work (1998) and the ILO Declaration on Social Justice for a Fair Globalization (2008);

*Moved by* the imperative of social justice that gave birth to the ILO one hundred years ago, and the conviction that it lies within the reach of the governments, employers and workers of the world to reinvigorate the Organization and shape a future of work that realizes its founding vision;

*Recognizing* that social dialogue contributes to the overall cohesion of societies and is crucial for a well-functioning and productive economy;

*Recognizing* also the importance of the role of sustainable enterprises as generators of employment and promoters of innovation and decent work;

*Reaffirming* that labour is not a commodity;

*Committing* to a world of work free from violence and harassment;

*Underlining also* the significance of promoting multilateralism, particularly in shaping the future of work that we want and in dealing with the challenges of the world of work;

*Calling upon* all constituents of the ILO to reaffirm their unwavering commitment and to reinvigorate their efforts to achieve social justice and universal and lasting peace to which they agreed in 1919 and 1944; and

*Desiring* to democratize ILO governance by ensuring a fair representation of all regions and establishing the principle of equality among member States,

Adopts this twenty-first day of June of the year two thousand and nineteen the ILO Centenary Declaration for the Future of Work.

### I

The Conference declares that:

- A. The ILO marks its Centenary at a time of transformative change in the world of work, driven by technological innovations, demographic shifts, environmental and climate change, and globalization, as well as at a time of persistent inequalities, which have profound impacts on the nature and future of work, and on the place and dignity of people in it.

B. It is imperative to act with urgency to seize the opportunities and address the challenges to shape a fair, inclusive and secure future of work with full, productive and freely chosen employment and decent work for all.

C. Such a future of work is fundamental for sustainable development that puts an end to poverty and leaves no one behind.

D. The ILO must carry forward into its second century with unrelenting vigour its constitutional mandate for social justice by further developing its human-centred approach to the future of work, which puts workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies.

E. The growth of the Organization over the past 100 years towards universal membership means that social justice can be achieved in all regions of the world and that the full contribution of the ILO's constituents to this endeavour can be assured only through their full, equal and democratic participation in its tripartite governance.

## II

The Conference declares that:

A. In discharging its constitutional mandate, taking into account the profound transformations in the world of work, and further developing its human-centred approach to the future of work, the ILO must direct its efforts to:

- (i) ensuring a just transition to a future of work that contributes to sustainable development in its economic, social and environmental dimensions;
- (ii) harnessing the fullest potential of technological progress and productivity growth, including through social dialogue, to achieve decent work and sustainable development, which ensure dignity, self-fulfilment and a just sharing of the benefits for all;
- (iii) promoting the acquisition of skills, competencies and qualifications for all workers throughout their working lives as a joint responsibility of governments and social partners in order to:
  - address existing and anticipated skills gaps;
  - pay particular attention to ensuring that education and training systems are responsive to labour market needs, taking into account the evolution of work; and
  - enhance workers' capacity to make use of the opportunities available for decent work;

- (iv) developing effective policies aimed at generating full, productive and freely chosen employment and decent work opportunities for all, and in particular facilitating the transition from education and training to work, with an emphasis on the effective integration of young people into the world of work;
- (v) supporting measures that help older workers to expand their choices, optimizing their opportunities to work in good-quality, productive and healthy conditions until their retirement, and to enable active ageing;
- (vi) promoting workers' rights as a key element for the attainment of inclusive and sustainable growth, with a focus on freedom of association and the effective recognition of the right to collective bargaining as enabling rights;
- (vii) achieving gender equality at work through a transformative agenda, with regular evaluation of progress made, which:
  - ensures equal opportunities, equal participation and equal treatment, including equal remuneration for women and men for work of equal value;
  - enables a more balanced sharing of family responsibilities;
  - provides scope for achieving better work–life balance by enabling workers and employers to agree on solutions, including on working time, that consider their respective needs and benefits; and
  - promotes investment in the care economy;
- (viii) ensuring equal opportunities and treatment in the world of work for persons with disabilities, as well as for other persons in vulnerable situations;
- (ix) supporting the role of the private sector as a principal source of economic growth and job creation by promoting an enabling environment for entrepreneurship and sustainable enterprises, in particular micro, small and medium-sized enterprises, as well as cooperatives and the social and solidarity economy, in order to generate decent work, productive employment and improved living standards for all;
- (x) supporting the role of the public sector as a significant employer and provider of quality public services;
- (xi) strengthening labour administration and inspection;
- (xii) ensuring that diverse forms of work arrangements, production and business models, including in domestic and global

- supply chains, leverage opportunities for social and economic progress, provide for decent work and are conducive to full, productive and freely chosen employment;
- (xiii) eradicating forced and child labour and promoting decent work for all and fostering cross-border cooperation, including in areas or sectors of high international integration;
  - (xiv) promoting the transition from the informal to the formal economy, while giving due attention to rural areas;
  - (xv) developing and enhancing social protection systems, which are adequate, sustainable and adapted to developments in the world of work;
  - (xvi) deepening and scaling up its work on international labour migration in response to constituents' needs and taking a leadership role in decent work in labour migration; and
  - (xvii) intensifying engagement and cooperation within the multilateral system with a view to strengthening policy coherence, in line with the recognition that:
    - decent work is key to sustainable development, addressing income inequality and ending poverty, paying special attention to areas affected by conflict, disaster and other humanitarian emergencies; and
    - in conditions of globalization, the failure of any country to adopt humane conditions of labour is more than ever an obstacle to progress in all other countries.
- B. Social dialogue, including collective bargaining and tripartite cooperation, provides an essential foundation of all ILO action and contributes to successful policy and decision-making in its member States.
- C. Effective workplace cooperation is a tool to help ensure safe and productive workplaces, in such a way that it respects collective bargaining and its outcomes, and does not undermine the role of trade unions.
- D. Safe and healthy working conditions are fundamental to decent work.

### III

The Conference calls upon all Members, taking into account national circumstances, to work individually and collectively, on the basis of tripartism and social dialogue, and with the support of the ILO, to further develop its human-centred approach to the future of work by:

A. Strengthening the capacities of all people to benefit from the opportunities of a changing world of work through:

- (i) the effective realization of gender equality in opportunities and treatment;
- (ii) effective lifelong learning and quality education for all;
- (iii) universal access to comprehensive and sustainable social protection; and
- (iv) effective measures to support people through the transitions they will face throughout their working lives.

B. Strengthening the institutions of work to ensure adequate protection of all workers, and reaffirming the continued relevance of the employment relationship as a means of providing certainty and legal protection to workers, while recognizing the extent of informality and the need to ensure effective action to achieve transition to formality. All workers should enjoy adequate protection in accordance with the Decent Work Agenda, taking into account:

- (i) respect for their fundamental rights;
- (ii) an adequate minimum wage, statutory or negotiated;
- (iii) maximum limits on working time; and
- (iv) safety and health at work.

C. Promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all through:

- (i) macroeconomic policies that have those aims as their central objective;
- (ii) trade, industrial and sectoral policies that promote decent work, and enhance productivity;
- (iii) investment in infrastructure and in strategic sectors to address the drivers of transformative change in the world of work;
- (iv) policies and incentives that promote sustainable and inclusive economic growth, the creation and development of sustainable enterprises, innovation, and the transition from the informal to the formal economy, and that promote the alignment of business practices with the objectives of this Declaration; and
- (v) policies and measures that ensure appropriate privacy and personal data protection, and respond to challenges and opportunities in the world of work relating to the digital transformation of work, including platform work.

### IV

The Conference declares that:

A. The setting, promotion, ratification and supervision of international labour standards is of fundamental importance to the ILO. This requires the Organization to have and promote a clear, robust, up-to-date body of international labour standards and to further enhance

transparency. International labour standards also need to respond to the changing patterns of the world of work, protect workers and take into account the needs of sustainable enterprises, and be subject to authoritative and effective supervision. The ILO will assist its Members in the ratification and effective application of standards.

B. All Members should work towards the ratification and implementation of the ILO fundamental Conventions and periodically consider, in consultation with employers' and workers' organizations, the ratification of other ILO standards.

C. It is incumbent on the ILO to strengthen the capacity of its tripartite constituents to:

- (i) encourage the development of strong and representative social partner organizations;
- (ii) engage in all relevant processes, including with labour market institutions, programmes and policies, within and across borders; and
- (iii) address all fundamental principles and rights at work, at all levels, as appropriate, through strong, influential and inclusive mechanisms of social dialogue,

in the conviction that such representation and dialogue contribute to the overall cohesion of societies and are a matter of public interest, and are crucial for a well functioning and productive economy.

D. The services that the ILO offers to its member States and social partners, notably through development cooperation, must be

consistent with its mandate and based on a thorough understanding of, and attention to, their diverse circumstances, needs, priorities and levels of development, including through expanded South–South and triangular cooperation.

E. The ILO should maintain the highest levels of statistical, research and knowledge management capacities and expertise in order to further strengthen the quality of its evidence-based policy advice.

F. On the basis of its constitutional mandate, the ILO must take an important role in the multilateral system, by reinforcing its cooperation and developing institutional arrangements with other organizations to promote policy coherence in pursuit of its human-centred approach to the future of work, recognizing the strong, complex and crucial links between social, trade, financial, economic and environmental policies.

The foregoing is the ILO Centenary Declaration for the Future of Work, duly adopted by the General Conference of the International Labour Organization during its One Hundred and Eighth (Centenary) Session which was held at Geneva and declared closed on 21 June 2019.

IN FAITH WHEREOF we have appended our signatures this twenty-first day of June 2019:

The President of the Conference,  
JEAN-JACQUES ELMIGER

The Director-General of  
the International Labour Office,  
GUY RYDER

## Relevant international human rights instruments

### Universal Declaration of Human Rights, 1948

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

#### Preamble

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Whereas* disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

*Whereas* it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

*Whereas* it is essential to promote the development of friendly relations between nations,

*Whereas* the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

*Whereas* Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

*Whereas* a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore **The General Assembly**

proclaims

#### **this Universal Declaration Of Human Rights**

as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### **Article 1**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### **Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### **Article 3**

Everyone has the right to life, liberty and security of person.

#### **Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

#### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

#### **Article 6**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-

political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage

and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25**

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be

made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27**

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## International Covenant on Economic, Social and Cultural Rights, 1966

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

### Preamble

The States Parties to the present Covenant, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

### PART I

#### Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-

determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

### PART II

#### Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

#### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

#### Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

#### Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

### PART III

#### **Article 6**

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

#### **Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
  - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

#### **Article 8**

1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization

concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
- (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### **Article 9**

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

#### **Article 10**

The States Parties to the present Covenant recognize that:

- 1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
- 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
- 3. Special measures of protection and assistance should be taken on behalf of all

children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

**Article 11**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

**Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

**Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational

institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

**Article 15**

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

**PART IV**

**Article 16**

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2.

- (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in

accordance with the provisions of the present Covenant;

- (b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

**Article 17**

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

**Article 18**

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

**Article 19**

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

**Article 20**

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

**Article 21**

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

**Article 22**

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

**Article 23**

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

**Article 24**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

**Article 25**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

**PART V**

**Article 26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

**Article 27**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

**Article 28**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

**Article 29**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties

present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

**Article 30**

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States

referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

**Article 31**

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

**Convention on the Elimination of All Forms of Discrimination against Women, 1979**

INTRODUCTION

Content and Significance of the Convention

PREAMBLE

PART I

- Discrimination (Article 1)
- Policy Measures (Article 2)
- Guarantee of Basic Human Rights and Fundamental Freedoms (Article 3)
- Special Measures (Article 4)
- Sex Role Stereotyping and Prejudice (Article 5)
- Prostitution (Article 6)

PART II

- Political and Public Life (Article 7)
- Representation (Article 8)
- Nationality (Article 9)

PART III

- Education (Article 10)
- Employment (Article 11)
- Health (Article 12)
- Economic and Social Benefits (Article 13)
- Rural Women (Article 14)

PART IV

- Law (Article 15)
- Marriage and Family Life (Article 16)

PART V

- Committee on the Elimination of Discrimination against Women (Article 17)

- National Reports (Article 18)
- Rules of Procedure (Article 19)
- Committee Meetings (Article 20)
- Committee Reports (Article 21)
- Role of Specialized Agencies (Article 22)

PART VI

- Effect on Other Treaties (Article 23)
- Commitment of States Parties (Article 24)
- Administration of the Convention (Articles 25–30)

**INTRODUCTION**

On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the tenth anniversary of the Convention in 1989, almost one hundred nations have agreed to be bound by its provisions.

The Convention was the culmination of more than thirty years of work by the United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light all the areas in which women are denied equality with men. These efforts for the advancement of women have resulted in several declarations and conventions, of which the Convention on the Elimination of All Forms

of Discrimination against Women is the central and most comprehensive document.

Among the international human rights treaties, the Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns. The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity, and worth of the human person, in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights.

In its preamble, the Convention explicitly acknowledges that "extensive discrimination against women continues to exist", and emphasizes that such discrimination "violates the principles of equality of rights and respect for human dignity". As defined in article 1, discrimination is understood as "any distinction, exclusion or restriction made on the basis of sex ... in the political, economic, social, cultural, civil or any other field". The Convention gives positive affirmation to the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men" (article 3).

The agenda for equality is specified in fourteen subsequent articles. In its approach, the Convention covers three dimensions of the situation of women. Civil rights and the legal status of women are dealt with in great detail. In addition, and unlike other human rights treaties, the Convention is also concerned with the dimension of human reproduction as well as with the impact of cultural factors on gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the Political Rights of Women in 1952. Its provisions, therefore, are restated in article 7 of the present document, whereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level (article 8). The Convention on the Nationality of Married Women – adopted in 1957 – is integrated under article 9 providing for the statehood of women, irrespective of

their marital status. The Convention, thereby, draws attention to the fact that often women's legal status has been linked to marriage, making them dependent on their husband's nationality rather than individuals in their own right. Articles 10, 11 and 13, respectively, affirm women's rights to non-discrimination in education, employment and economic and social activities. These demands are given special emphasis with regard to the situation of rural women, whose particular struggles and vital economic contributions, as noted in article 14, warrant more attention in policy planning. Article 15 asserts the full equality of women in civil and business matters, demanding that all instruments directed at restricting women's legal capacity "shall be deemed null and void". Finally, in article 16, the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regard to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. The preamble sets the tone by stating that "the role of women in procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example, it advocates, in article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child-rearing by both sexes. Accordingly, provisions for maternity protection and child-care are proclaimed as essential rights and are incorporated into all areas of the Convention, whether dealing with employment, family law, health care or education. Society's obligation extends to offering social services, especially child-care facilities, that allow individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and "shall not be considered discriminatory" (article 4). The Convention also affirms women's right to reproductive choice. Notably, it is the only human rights treaty to mention family planning. States parties are obliged to include advice on family planning in the education process (article 10.h) and to develop family codes that guarantee women's rights "to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (article 16.e).

The third general thrust of the Convention aims at enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on

restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes, customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women. Noting this interrelationship, the preamble of the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". States parties are therefore obliged to work towards the modification of social and cultural patterns of individual conduct in order to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (article 5). And Article 10.c. mandates the revision of textbooks, school programmes and teaching methods with a view to eliminating stereotyped concepts in the field of education. Finally, cultural patterns which define the public realm as a man's world and the domestic sphere as women's domain are strongly targeted in all of the Convention's provisions that affirm the equal responsibilities of both sexes in family life and their equal rights with regard to education and employment. Altogether, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex.

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW). The Committee's mandate and the administration of the treaty are defined in the Articles 17 to 30 of the Convention. The Committee is composed of 23 experts nominated by their Governments and elected by the States parties as individuals "of high moral standing and competence in the field covered by the Convention".

At least every four years, the States parties are expected to submit a national report to the Committee, indicating the measures they have adopted to give effect to the provisions of the Convention. During its annual session, the Committee members discuss these reports with the Government representatives and explore with them areas for further action by the specific country. The Committee also makes general recommendations to the States parties on matters concerning the elimination of discrimination against women.

The full text of the Convention is set out herein:

### **Convention on the Elimination of All Forms of Discrimination against Women**

The States Parties to the present Convention, Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is

essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women, Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

## PART I

### **Article 1**

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the

objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

**Article 5**

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

**Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

**PART II**

**Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

**Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at

the international level and to participate in the work of international organizations.

**Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

**PART III**

**Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

**Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular

through promoting the establishment and development of a network of child-care facilities;

- (d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

**Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

**Article 13**

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

**Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;

- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
  - (c) To benefit directly from social security programmes;
  - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
  - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
  - (f) To participate in all community activities;
  - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
  - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
  - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
  - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

#### **PART IV**

##### **Article 15**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

##### **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

#### **PART V**

##### **Article 17**

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons

nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

#### **Article 18**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- (a) Within one year after the entry into force for the State concerned;
- (b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

#### **Article 19**

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

#### **Article 20**

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. (amendment, status of ratification)

#### **Article 21**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

#### **Article 22**

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the

implementation of the Convention in areas falling within the scope of their activities.

## PART VI

### **Article 23**

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

### **Article 24**

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

### **Article 25**

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

### **Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

### **Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or

accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

### **Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

### **Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

### **Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

## Convention on the Rights of the Child, 1989

**Adopted and opened for signature,  
ratification and accession by General  
Assembly resolution 44/25  
of 20 November 1989  
entry into force 2 September 1990,  
in accordance with article 49**

### Preamble

The States Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

### PART I

#### Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

**Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

**Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 4**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

**Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the

child of the rights recognized in the present Convention.

**Article 6**

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

**Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

**Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

**Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the

detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

**Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

**Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the

child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

**Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others; or
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

**Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

**Article 15**

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

**Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy,

family, or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

**Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

**Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-

care services and facilities for which they are eligible.

**Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

#### **Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

#### **Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate

nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

**Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

**Article 26**

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

**Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities,

the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

**Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In

this regard, particular account shall be taken of the needs of developing countries.

**Article 29**

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

**Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the

provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

**Article 32**

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

**Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

**Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

**Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

**Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

**Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

**Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

**Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

- (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
  - (i) To be presumed innocent until proven guilty according to law;
  - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
  - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
  - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to

obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
  - (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

### **PART II**

#### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention. 1/ The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder

of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

**Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and

Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

**Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

**PART III**

**Article 46**

The present Convention shall be open for signature by all States.

**Article 47**

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

**Article 48**

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

**Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

**Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which

have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

**Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

**Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

**Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

**Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

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1/ The General Assembly, in its resolution 50/155 of 21 December 1995, approved the amendment to article 43, paragraph 2, of the Convention on the Rights of the Child, replacing the word "ten" with the word "eighteen". The amendment entered into force on 18 November 2002 when it had been accepted by a two-thirds majority of the States parties (128 out of 191).

## Convention on the Rights of Persons with Disabilities, 2006

### PREAMBLE

The States Parties to the present Convention,

- (a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable

- rights of all members of the human family as the foundation of freedom, justice and peace in the world,
- (b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,
  - (c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,
  - (d) *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,
  - (e) *Recognizing* that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,
  - (f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,
  - (g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,
  - (h) *Recognizing* also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,
  - (i) *Recognizing* further the diversity of persons with disabilities,
  - (j) *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
  - (k) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,
  - (l) *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,
  - (m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,
  - (n) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,
  - (o) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,
  - (p) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
  - (q) *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or

- negligent treatment, maltreatment or exploitation,
- (r) *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,
  - (s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,
  - (t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,
  - (u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,
  - (v) *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,
  - (w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,
  - (x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,
  - (y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to

redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

#### **Article 1 – Purpose**

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

#### **Article 2 – Definitions**

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need

for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

**Article 3 – General principles**

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

**Article 4 – General obligations**

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
- (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

- (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
  - (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
  - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
  - (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or

international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

#### **Article 5 – Equality and non-discrimination**

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

#### **Article 6 – Women with disabilities**

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

#### **Article 7 – Children with disabilities**

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

#### **Article 8 – Awareness-raising**

1. States Parties undertake to adopt immediate, effective and appropriate measures:

- (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
- (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
- (c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Measures to this end include:

- (a) Initiating and maintaining effective public awareness campaigns designed:
  - (i) To nurture receptiveness to the rights of persons with disabilities;
  - (ii) To promote positive perceptions and greater social awareness towards persons with disabilities;
  - (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
- (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
- (c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
- (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

#### **Article 9 – Accessibility**

1. To enable persons with disabilities to live independently and participate fully in all

aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- (b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

- (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
- (d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and

systems become accessible at minimum cost.

#### **Article 10 – Right to life**

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

#### **Article 11 – Situations of risk and humanitarian emergencies**

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

#### **Article 12 – Equal recognition before the law**

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of

financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

#### **Article 13 – Access to justice**

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

#### **Article 14 – Liberty and security of the person**

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

- (a) Enjoy the right to liberty and security of person;
- (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

#### **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

#### **Article 16 – Freedom from exploitation, violence and abuse**

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

#### **Article 17 – Protecting the integrity of the person**

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

#### **Article 18 – Liberty of movement and nationality**

1. States Parties shall recognize the rights of persons with disabilities to liberty

of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

- (a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
- (b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
- (c) Are free to leave any country, including their own;
- (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

**Article 19 – Living independently and being included in the community**

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- (a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- (b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

**Article 20 – Personal mobility**

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- (a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- (b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- (c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- (d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

**Article 21 – Freedom of expression and opinion, and access to information**

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the

- Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

**Article 22 – Respect for privacy**

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

**Article 23 – Respect for home and the family**

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
- (a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- (b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- (c) Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to

realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

**Article 24 – Education**

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

- (c) Reasonable accommodation of the individual's requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
- (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

### **Article 25 – Health**

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- (e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- (f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

### **Article 26 – Habilitation and rehabilitation**

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive

habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

- (a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
  - (b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

#### **Article 27 – Work and employment**

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- (g) Employ persons with disabilities in the public sector;
- (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
- (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

#### **Article 28 – Adequate standard of living and social protection**

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

- (a) To ensure equal access by persons with disabilities to clean water services,

and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

- (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
- (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
- (d) To ensure access by persons with disabilities to public housing programmes;
- (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

**Article 29 – Participation in political and public life**

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
  - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

- (a) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
  - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
  - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

**Article 30 – Participation in cultural life, recreation, leisure and sport**

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

- (a) Enjoy access to cultural materials in accessible formats;
- (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
- (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis

with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

- (a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
- (b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
- (c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
- (d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
- (e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

#### **Article 31 – Statistics and data collection**

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

- (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
- (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

#### **Article 32 – International cooperation**

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

- (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
- (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
- (c) Facilitating cooperation in research and access to scientific and technical knowledge;
- (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

#### **Article 33 – National implementation and monitoring**

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate,

to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

**Article 34 – Committee on the Rights of Persons with Disabilities**

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.

3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.

4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.

5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each

election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.

9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.

10. The Committee shall establish its own rules of procedure.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee’s responsibilities.

13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

### **Article 35 – Reports by States Parties**

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.
2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.
3. The Committee shall decide any guidelines applicable to the content of the reports.
4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.
5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

### **Article 36 – Consideration of reports**

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.
2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report,

the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.
4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.
5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

### **Article 37 – Cooperation between States Parties and the Committee**

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.
2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

### **Article 38 – Relationship of the Committee with other bodies**

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

- (a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- (b) The Committee, as it discharges its mandate, shall consult, as appropriate,

other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

#### **Article 39 – Report of the Committee**

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

#### **Article 40 – Conference of States Parties**

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.
2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

#### **Article 41 – Depositary**

The Secretary-General of the United Nations shall be the depositary of the present Convention.

#### **Article 42 – Signature**

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

#### **Article 43 – Consent to be bound**

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

#### **Article 44 – Regional integration organizations**

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.
2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.
3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.
4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 45 – Entry into force**

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.
2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

#### **Article 46 – Reservations**

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.
2. Reservations may be withdrawn at any time.

#### **Article 47 – Amendments**

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed

amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

#### **Article 48 – Denunciation**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

#### **Article 49 – Accessible format**

The text of the present Convention shall be made available in accessible formats.

#### **Article 50 – Authentic texts**

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized

thereto by their respective Governments, have signed the present Convention.

Source: Annex 1, Final report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities [A/61/611]

## **Optional Protocol to the Convention on the Rights of Persons with Disabilities**

*The States Parties to the present Protocol have agreed as follows:*

### **Article 1**

1. A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

### **Article 2**

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

**Article 3**

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

**Article 4**

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

**Article 5**

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

**Article 6**

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

**Article 7**

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6, paragraph 4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

**Article 8**

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

**Article 9**

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

**Article 10**

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

**Article 11**

The present Protocol shall be subject to ratification by signatory States of the present Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of the present Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

**Article 12**

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which

its member States have transferred competence in respect of matters governed by the Convention and the present Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and the present Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to “States Parties” in the present Protocol shall apply to such organizations within the limits of their competence.

3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, of the present Protocol, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 13**

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

#### **Article 14**

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.

2. Reservations may be withdrawn at any time.

#### **Article 15**

1. Any State Party may propose an amendment to the present Protocol and

submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly of the United Nations for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

#### **Article 16**

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

#### **Article 17**

The text of the present Protocol shall be made available in accessible formats.

#### **Article 18**

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol

## ANNEXES

### Annex I. Sustainable Development Goals Relevant to Social Protection

**Table 2. Sustainable Development Goals Relevant to Social Protection**

Goal	Target	Indicator
<b><i>SDG1: End in all its forms everywhere</i></b>	<p><b>Target 1.3</b> – Implement nationally appropriate <b>social protection systems and measures for all</b>, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable.</p> <p><b>Target 1.a.</b> – <b>Ensure significant mobilization of resources from a variety of sources</b>, including through enhanced development cooperation, in order to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty in all its dimensions.</p>	<p><b>Indicator 1.3.1</b> – Proportion of population covered by social protection floors/systems, by sex, distinguishing children, unemployed persons, older persons, persons with disabilities, pregnant women, newborns, work-injury victims and the poor and the vulnerable.</p> <p><b>Indicator 1.a.2</b> – Proportion of total government spending on essential services (education, health and social protection).</p>
<b><i>SDG3: Ensure healthy and promote well-being for all at all ages</i></b>	<p><b>Target 3.8</b> – Achieve <b>universal health coverage</b>, including <b>financial risk protection</b>, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.</p>	<p><b>Indicator 3.8.1</b> – Coverage of essential health services (defined as the average coverage of essential services based on tracer interventions that include reproductive, maternal, newborn and child health, infectious diseases, non-communicable diseases and service capacity and access, among the general and the most disadvantaged population).</p> <p><b>Indicator 3.8.2</b> – Proportion of population with large household expenditures on health as a share of total household expenditure or income.</p>

Goal	Target	Indicator
<b><i>SDG5: Achieve gender equality and empower all women and girls</i></b>	<b>Target 5.4 – Recognize and value unpaid care and domestic work</b> through the provision of public services, infrastructure and <b>social protection policies</b> and the promotion of shared responsibility within the household and the family as nationally appropriate.	<b>Indicator 5.4.1</b> – Proportion of time spent on unpaid domestic and care work, by sex, age and location.
<b><i>SDG8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</i></b>	<b>Target 8.5</b> – By 2030, <b>achieve full and productive employment and decent work for all women and men</b> , including for young people and persons with disabilities, and equal pay for work of equal value.	<b>Indicator 8.5.1</b> – Average hourly earnings of female and male employees, by occupation, age and persons with disabilities. <b>Indicator 8.5.2</b> – Unemployment rate, by sex, age and persons with disabilities.
<b><i>SDG10: Reduced inequalities within and among countries</i></b>	<b>Target 10.4</b> – <b>Adopt policies</b> , especially fiscal, wage and <b>social protection policies</b> , and <b>progressively achieve greater equality</b> .	<b>Indicator 10.4.1</b> – Labour share of GDP, comprising wages and social protection transfers.
<b><i>SDG16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</i></b>	<b>Target 16.6</b> – <b>Develop effective, accountable and transparent institutions</b> at all levels.	<b>Indicator 16.6.1</b> – Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar). <b>Indicator 16.6.2</b> – Proportion of the population satisfied with their last experience of public services.

Annex II. Minimum requirements in ILO social security standards: Overview tables <sup>1</sup>

Table 3. Main requirements: ILO social security standards on health protection

	Convention No. 102 Minimum standards	Convention No. 130 <sup>a</sup> and Recommendation No. 134 <sup>b</sup> Advanced standards	Recommendation No. 202 Basic protection
<b>What should be covered?</b>	Any ill health condition, whatever its cause; pregnancy, childbirth and their consequences.	The need for medical care of curative and preventive nature.	Any condition requiring health care, including maternity.
<b>Who should be covered?</b>	At least: <ul style="list-style-type: none"> <li>– 50% of all employees, and wives and children; <i>or</i></li> <li>– categories of the economically active population (forming not less than 20% of all residents, and wives and children); <i>or</i></li> <li>– 50% of all residents.</li> </ul>	<b>C.130:</b> All employees, including: <ul style="list-style-type: none"> <li>– apprentices, and their wives and children; <i>or</i></li> <li>– categories of the active population forming not less than 75% of whole active population, and their wives and children; <i>or</i></li> <li>– prescribed class of residents forming not less than 75% of all residents.</li> </ul> (Persons already receiving certain social security benefits shall also continue to be protected under prescribed conditions).  <b>R.134:</b> In addition: persons in casual employment and their families, members of employers' families living in their house and working for them, all economically active persons and their families, all residents.	At least all residents and children, subject to the country's existing international obligations.

<sup>1</sup> The following tables provide a summary of the main parameters found in up-to date ILO social protection conventions and recommendations by branch.

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 130<sup>a</sup> and Recommendation No. 134<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should the benefit be?</b>	<p><i>In case of ill health:</i> general practitioner care, specialist care at hospitals, essential medications and supplies, hospitalization if necessary.</p> <p><i>In case of pregnancy, childbirth and their consequences:</i> prenatal, childbirth and post-natal care by medical practitioners and qualified midwives, hospitalization if necessary.</p>	<p><b>C.130:</b> The medical care required by the person's condition, with a view to maintaining, restoring or improving health and ability to work and attend to personal needs, including at least: general practitioner care, specialist care at hospitals, allied care and benefits, essential medical supplies, hospitalization if necessary, dental care and medical rehabilitation.</p> <p><b>R.134:</b> Also the supply of medical aids (e.g. eyeglasses) and services for convalescence.</p>	<p>Goods and services constituting at least essential health care, including maternity care, meeting accessibility, availability, acceptability and quality criteria; free prenatal and post-natal medical care for the most vulnerable; higher levels of protection should be provided to as many people as possible, as soon as possible.</p>
<b>What should the benefit duration be?</b>	<p>As long as ill health, or pregnancy and childbirth and their consequences, persist. May be limited to 26 weeks in each case of sickness. Benefit should not be suspended while beneficiary receives sickness benefits or is treated for a disease recognized as requiring prolonged care.</p>	<p><b>C.130:</b> Throughout the contingency. May be limited to 26 weeks where a beneficiary ceases to belong to the categories of persons protected, unless he/she is already receiving medical care for a disease requiring prolonged care, or as long as he/she is paid a cash sickness benefit.</p> <p><b>R.134:</b> Throughout the contingency.</p>	<p>As long as required by the health status</p>
<b>What conditions can be prescribed for entitlement to a benefit?</b>	<p>Qualifying period may be prescribed as necessary to preclude abuse.</p>	<p><b>C.130:</b> Qualifying period shall be such as not to deprive of the right to benefits persons who normally belong to the category.</p> <p><b>R.134:</b> Right to benefit should not be subject to qualifying period.</p>	<p>Persons in need of health care should not face hardship and an increased risk of poverty due to financial consequences of accessing essential health care.</p> <p>Should be defined at national level and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.</p>
<p><sup>a</sup> Medical Care and Sickness Benefits Convention, 1969. <sup>b</sup> Medical Care and Sickness Benefits Recommendation, 1959.</p>			

**Table 4. Main requirements: ILO social security standards on sickness benefits**

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 130 and Recommendation No. 134 Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Incapacity to work resulting from illness that results in the suspension of income	<b>C.130:</b> Incapacity to work resulting from sickness and involving suspension of earnings. <b>R.134:</b> Also covers periods of absence from work resulting in loss of earnings due to convalescence, curative or preventative medical care, rehabilitation or quarantine, or due to caring for dependants.	At least basic income security for those who are unable to earn a sufficient income due to sickness.
<b>Who should be protected?</b>	At least: – 50% of all employees; <i>or</i> – categories of the economically active population (forming not less than 20% of all residents); <i>or</i> – all residents with means under a prescribed threshold	<b>C.130:</b> All employees, including: – apprentices; <i>or</i> – categories of economically active population (forming not less than 75% of whole economically active population); <i>or</i> – all residents with means under prescribed threshold. <b>R.134:</b> Extension to persons in casual employment, members of employers' families living in their house and working for them, all economically active persons, all residents.	At least all residents of active age, subject to the country's existing international obligations.
<b>What should be the benefit?</b>	<i>Periodic payments:</i> at least 45% of reference wage.	<b>C.130:</b> Periodic payments: at least 60% of reference wage; in case of death of the beneficiary, benefit for funeral expenses. <b>R.134:</b> Benefit should be 66.66% of reference wage.	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity. Levels should be regularly reviewed.

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 130 and Recommendation No. 134 Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should the benefit duration be?</b>	As long as the person remains unable to engage in gainful employment due to illness; possible waiting period of max. three days before benefit is paid; benefit duration may be limited to 26 weeks in each case of sickness.	<b>C.130:</b> As long as the person remains unable to engage in gainful employment due to illness; possible waiting period of max three days before benefit is paid; benefit duration may be limited to 52 weeks in each case of sickness. <b>R.134:</b> Benefit should be paid for full duration of sickness or other contingencies covered.	As long as the incapacity to earn a sufficient income due to sickness remains.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	Qualifying period may be prescribed as necessary to prevent abuse.	<b>C.130:</b> Qualifying period may be prescribed as necessary to prevent abuse.	Should be defined at national level, and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.

**Table 5. Main requirements: ILO social security standards on unemployment protection**

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 168<sup>a</sup> and Recommendation No. 176<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Suspension of earnings due to inability to find suitable employment for capable and available person.	<b>C.168:</b> Loss of earnings due to inability to find suitable employment for capable and available person actively seeking work. Protection should be extended to loss of earnings due to partial unemployment, suspension or reduction of earnings due to temporary suspension of work, as well as part-time workers seeking full-time work. <b>R.176:</b> Provides guidance for assessing suitability of potential employment.	At least basic income security for those who are unable to earn sufficient income in case of unemployment.
<b>Who should be protected?</b>	At least: <ul style="list-style-type: none"> <li>– 50% of all employees; or</li> <li>– all residents with means under prescribed threshold.</li> </ul>	<b>C.168:</b> At least 85% of employees, including public employees and apprentices; all residents with means under prescribed threshold. Coverage should be extended to part-time workers and at least 3 of the 10 listed categories of persons seeking work who have never been, or have ceased to be, recognized as unemployed or covered by unemployment protection schemes. <b>R.176:</b> Coverage should be extended progressively to all employees as well as to persons experiencing hardship during waiting period.	At least all residents of active age, subject to the country's existing international obligations.
<b>What should be the benefit?</b>	Periodic payments; at least 45% of reference wage.	<b>C.168:</b> Periodic payments: at least 50% of reference wage; or total benefits must guarantee the beneficiary healthy and reasonable living conditions. <b>R.176:</b> For partial employment: total benefit and earnings from the part-time work should reach a sum between previous earnings from full-time work and the amount of full unemployment benefit, or be calculated in light of reduction of hours of work suffered.	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity.

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 168<sup>a</sup> and Recommendation No. 176<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should the benefit duration be?</b>	<p><i>For schemes covering employees:</i> At least 13 weeks of benefits within a period of 12 months.</p> <p><i>For means-tested (non-contributory) schemes:</i> At least 26 weeks within a period of 12 months.</p> <p>Possible waiting period of max seven days.</p>	<p><b>C.168:</b> Throughout the unemployment period; possibility to limit initial duration of payment of the benefit to 26 weeks in each case of unemployment or 39 weeks over any period of 24 months; possible waiting period of max seven days.</p> <p><b>R.176:</b> Benefit duration should be extended until pensionable age for unemployed persons having reached a prescribed age.</p>	As long as the incapacity to earn a sufficient income remains.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	Qualifying period may be prescribed as necessary to prevent abuse.	<p><b>C.168:</b> Qualifying period may be prescribed as necessary to prevent abuse.</p> <p><b>R.176:</b> Qualifying period should be adapted or waived for new jobseekers.</p>	Should be defined at national level, and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.
<p><sup>a</sup> Employment Promotion and Protection against Unemployment Convention, 1988. <sup>b</sup> Employment Promotion and Protection against Unemployment Recommendation, 1988.</p>			

**Table 6. Main requirements: ILO social security standards on income security in old age (old-age pensions)**

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 128<sup>a</sup> and Recommendation No. 131<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Survival beyond a prescribed age (65 or higher according to working ability of elderly persons in country).	<b>C.128:</b> Survival beyond a prescribed age (65 or higher with due regard to demographic, economic and social criteria). Also, the prescribed age should be lower than 65 for persons with occupations deemed arduous or unhealthy. <b>R.131:</b> In addition, the prescribed age should be lowered based on social grounds.	At least basic income security for older persons.
<b>Who should be protected?</b>	At least: <ul style="list-style-type: none"> <li>– 50% of all employees; <i>or</i></li> <li>– categories of economically active population (forming not less than 20% of all residents); <i>or</i></li> <li>– all residents with means under prescribed threshold.</li> </ul>	<b>C.128:</b> All employees, including apprentices; <i>or</i> <ul style="list-style-type: none"> <li>– categories of economically active population (forming not least 75% of whole economically active population); <i>or</i></li> <li>– all residents; <i>or</i></li> <li>– residents with means under prescribed threshold.</li> </ul> <b>R.131:</b> Coverage should be extended to persons whose employment is of casual nature; <i>or</i> all economically active persons. (Benefits should not be suspended solely for reason of being absent from the territory).	All residents of a nationally prescribed age, subject to the country's existing international obligations.
<b>What should be the benefit?</b>	<i>Periodic payments:</i> at least 40% of reference wage; adjustment following substantial changes in general level of earnings which result from substantial changes in the cost of living.	<b>C.128:</b> <i>Periodic payments:</i> at least 45% of reference wage; adjustment following substantial changes in general level of earnings or in the cost of living. <b>R.131:</b> At least 55% of reference wage; minimum amount of old-age benefit should be fixed by legislation to ensure a minimum standard of living; level of benefit should be increased if beneficiary requires constant help.	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity. Levels should be regularly reviewed.

International standards and human rights instruments

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 128<sup>a</sup> and Recommendation No. 131<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
		<p>The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living.</p> <p>(Level of benefits should be increased under certain conditions, if the person who has reached pensionable age defers either their retirement or their claim to benefits).</p> <p>Benefits provided through a contributory scheme should not be suspended solely because the person entitled to the benefits is gainfully occupied.</p>	
<b>What should the benefit duration be?</b>	From the prescribed age to the death of beneficiary.	From the prescribed age to the death of beneficiary.	From the nationally prescribed age to the death of beneficiary.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	<p>30 years of contribution or employment (for contributory schemes) or 20 years of residence (for non-contributory schemes); <i>or</i>, if all EAP covered, a prescribed qualifying period and a prescribed yearly average number of contributions paid.</p> <p>Entitlement to a reduced benefit after 15 years of contribution or employment; <i>or</i>, if all EAP covered, a prescribed qualifying period and meet half the yearly average number of contributions prescribed.</p>	<p><b>C.128:</b> Same as <b>C.102</b></p> <p><b>R.131:</b> 20 years of contributions or employment (for contributory schemes) <i>or</i> 15 years of residence (for non-contributory schemes).</p> <p>Entitlement to a reduced benefit after 10 years of contribution or employment.</p> <p>Periods of incapacity due to sickness, accident or maternity, and periods of involuntary unemployment, in respect of which benefit was paid, and compulsory military service, should be assimilated to periods of contribution or employment for calculation of the qualifying period fulfilled.</p>	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of older persons.
<p><sup>a</sup> Invalidity, Old-Age and Survivors' Benefits Convention, 1967. <sup>b</sup> Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967.</p>			

**Table 7. Main requirements: ILO social security standards on employment injury protection**

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 121<sup>a</sup> and Recommendation No. 121<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Ill health and/or incapacity for work due to work-related accident or disease, resulting in suspension of earnings; total loss of earning capacity or partial loss at a prescribed degree, likely to be permanent, or corresponding loss of faculty; loss of support for the family in case of death of breadwinner.	<b>C.121:</b> Same as <b>C.102</b> .	At least basic income security for those who are unable to earn a sufficient income due to employment injury.
<b>Who should be protected?</b>	At least 50% of all employees and their wives and children.	<b>C.121:</b> All public and private sector employees, including members of cooperatives and apprentices; in case of death, spouse, children and other dependants as prescribed.  <b>R.121:</b> Coverage should be extended progressively to all categories of employees, other categories of workers and other dependent family members (parents, brothers and sisters, and grandchildren).	At least all residents of active age, subject to the country's existing international obligations.
<b>What should the benefit be?</b>	<i>Medical care and allied benefits:</i> General practitioner, specialist, dental care, nursing care; hospitalization; medication, rehabilitation, prosthetics, eyeglasses, etc., with a view to maintaining, restoring or improving health and ability to work and attend to personal needs.	<b>C.121: Medical care:</b> Same as <b>C.102</b> ; also emergency and follow-up treatment at place of work.  <i>Cash benefits:</i> Periodic payments: at least 60% of reference wage in cases of incapacity for work or invalidity; at least 50% of reference wage as well as funeral benefits in case of death of breadwinner. Level of benefit should be increased if beneficiary requires constant help.	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity. Levels should be regularly reviewed.

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 121<sup>a</sup> and Recommendation No. 121<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
	<p><i>Cash benefits:</i> Periodic payments: at least 50% of reference wage in cases of incapacity to work or invalidity; at least 40% of reference wage in cases of death of breadwinner.</p> <p>Adjustment of long-term benefits following substantial changes in general level of earnings which result from substantial changes in the cost of living.</p> <p>Lump sum if incapacity is slight and competent authority is satisfied that the sum will be used properly.</p>	<p><i>Lump sum:</i> Same conditions as <b>C.102</b> as regards substantial partial loss of earning capacity or corresponding loss of faculty, or with regards to partial loss of earning capacity likely to be permanent which is not substantial but which is in excess of a prescribed degree, with the consent of the injured person and if the competent authority believes that it will be used in a particularly advantageous manner.</p> <p>Adjustment of long-term benefits following substantial changes in the general level of earnings and/or the cost of living.</p> <p><b>R.121:</b> Same as <b>C.102</b>.</p> <p><i>Cash benefit:</i> not less than 66.67% of average earnings of persons protected;</p> <p>Costs of constant help or attendance should be covered when such care is required.</p> <p>Supplementary or special benefits where unemployability or disfigurement are not taken into account in the evaluation of the loss sustained.</p> <p>Lump sum allowed where degree of incapacity is less than 25%; should bear an equitable relationship to periodic payments and not be less than periodic payments for three years.</p>	
<b>What should the benefit duration be?</b>	<p>As long as the person is in need of health care or remains incapacitated.</p> <p>No waiting period except for temporary incapacity to work for a maximum of three days.</p>	<p><b>C.121:</b> As long as the person is in need of health care or remains incapacitated.</p> <p><b>R.121:</b> In addition, cash benefits should be paid from first day in each case of suspension of earnings.</p>	<p>As long as the incapacity to earn a sufficient income remains.</p>

	<b>Convention No. 102 Minimum standards</b>	<b>Convention No. 121<sup>a</sup> and Recommendation No. 121<sup>b</sup> Advanced standards</b>	<b>Recommendation No. 202 Basic protection</b>
<b>What conditions can be prescribed for entitlement to a benefit?</b>	No qualifying period allowed for benefits to injured persons. For dependants, benefit may be made conditional on spouse being presumed incapable of self-support and children remaining under a prescribed age.	<b>C.121:</b> Same as <b>C.102</b> . (In the case of occupational diseases, a period of exposure may be prescribed.)	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of the injured people.
<sup>a</sup> Employment Injury Benefits Convention, 1964. <sup>b</sup> Employment Injury Benefits Recommendation, 1964.			

**Table 8. Main requirements: ILO social security standards on family/child benefits**

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Responsibility for child maintenance.	At least basic income security for children.
<b>Who should be protected?</b>	At least: <ul style="list-style-type: none"> <li>– 50% of all employees; <i>or</i></li> <li>– categories of economically active population (forming not less than 20% of all residents; <i>or</i></li> <li>– all residents with means under prescribed threshold.</li> </ul>	All children.
<b>What should the benefit be?</b>	Periodic payments; <i>or</i> provision for food, clothing, housing, holidays or domestic help; <i>or</i> combination of both. <i>Total value of benefits calculated at a global level:</i> <ul style="list-style-type: none"> <li>– at least 3% of reference wage multiplied by number of children of covered people; <i>or</i></li> <li>– a least 1.5% of reference wage multiplied by number of children of all residents.</li> </ul>	Benefits in cash or in kind at a level that ensures at least basic income security for children, providing access to nutrition, education, care and other necessary goods and services.
<b>What should the benefit duration be?</b>	At least from birth to 15 years of age or school-leaving age.	For the duration of childhood.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	<ul style="list-style-type: none"> <li>– Three months' contributions or employment (for contributory or employment based schemes);</li> <li>– one year's residence (for non-contributory schemes).</li> </ul>	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of children.

**Table 9. Main requirements: ILO social security standards on maternity protection**

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Convention No. 183 <sup>a</sup> and Recommendation No. 191 <sup>b</sup> Advanced standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What should be covered?</b>	Medical care required by pregnancy, confinement and their consequences; resulting lost wages.	<b>C.183:</b> Medical care required by pregnancy, child birth and their consequences; resulting lost wages. <b>R.191:</b> Same as <b>C.183</b> .	Essential maternity health care At least basic income security for those who are unable to earn a sufficient income due to maternity.
<b>Who should be protected?</b>	At least: <ul style="list-style-type: none"> <li>– all women in prescribed classes of employees, which classes constitute not less than 50% of all employees and, for maternity medical benefit, also the wives of men in these classes <i>or</i></li> <li>– all women in categories of the economically active population forming not less than 20% of all residents, including, with regard to maternity medical benefit, the wives of men in these classes); <i>or</i></li> <li>– all women with means under prescribed threshold.</li> </ul>	<b>C.183:</b> All employed women including those in atypical forms of dependant work. <b>R.191:</b> Same as <b>C.183</b> .	At least all women who are residents, subject to the country's international obligations.

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Convention No. 183<sup>a</sup> and Recommendation No. 191<sup>b</sup> Advanced standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What should the benefit be?</b>	<p><i>Medical benefits:</i> At least:</p> <ul style="list-style-type: none"> <li>– prenatal, confinement and post-natal care by qualified practitioners;</li> <li>– hospitalization if necessary.</li> </ul> <p><i>With a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.</i></p> <p><i>Cash benefits:</i> Periodic payment: At least 45% of the reference wage.</p>	<p><b>C.183:</b> <i>Medical benefits:</i> At least prenatal, childbirth and post-natal care; hospitalization if necessary. Daily remunerated breaks or reduced hours for breastfeeding.</p> <p><i>Cash benefits:</i> At least 66.67% of previous earnings; should maintain mother and child in proper conditions of health and a suitable standard of living. Appropriateness to increase the levels of cash benefits must be examined periodically.</p> <p><b>R.191:</b> <i>Medical benefits:</i> Medical maternity care should also comprise pharmaceutical and medical supplies, medically prescribed tests as well as dental and surgical care.</p> <p><i>Cash benefits:</i> Should be raised to the full amount of the woman's previous earnings.</p>	<p><i>Medical benefits:</i> Goods and services constituting essential maternity healthcare meeting criteria of availability, accessibility, acceptability and quality; free prenatal and post-natal medical care should be considered for the most vulnerable.</p> <p><i>Benefits in cash or in kind:</i> should ensure at least basic income security, so as to secure effective access to necessary goods and services, and be at a level that prevents or alleviates poverty, vulnerability and social exclusion and enables life in dignity. Levels should be regularly reviewed.</p>
<b>What should the benefit duration be?</b>	<p><i>Medical benefits:</i> Throughout the contingency</p> <p><i>Cash benefits:</i> At least 12 weeks for cash benefits.</p>	<p><b>C.183:</b> 14 weeks' maternity leave, including 6 weeks' compulsory leave after childbirth; additional leave before or after maternity leave in case of illness, complications or risk of complications arising from pregnancy or childbirth.</p> <p><b>R.191:</b> At least 18 weeks' maternity leave. Extension of the maternity leave in the event of multiple births.</p>	As long as the incapacity to earn a sufficient income remains.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	As considered necessary to preclude abuse.	<p><b>C.183:</b> Conditions must be met by a large majority of women; those who do not meet conditions are entitled to social assistance.</p> <p><b>R.191:</b> Same as <b>C.183</b>.</p>	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of women.
<p><sup>a</sup> Maternity Protection Convention, 2000. <sup>b</sup> Maternity Protection Recommendation, 2000.</p>			

Table 10. Main requirements: ILO social security standards on disability benefits

	ILO Convention No. 102 Minimum standards	ILO Convention No. 128 and Recommendation No. 131 Advanced standards	ILO Recommendation No. 202 Basic protection
<b>What should be covered?</b>	Inability to engage in any gainful activity, likely to be permanent, or that persists beyond sickness benefit (total invalidity).	<b>C.128:</b> Incapacity to engage in any gainful activity, likely to be permanent, or that persists beyond temporary or initial incapacity (total invalidity). <b>R.131:</b> Incapacity to engage in an activity involving substantial gain (total and partial invalidity).	At least basic income security for those who are unable to earn a sufficient income due to disability.
<b>Who should be protected?</b>	At least: <ul style="list-style-type: none"> <li>– 50% of all employees; <i>or</i></li> <li>– categories of the economically active population (forming not less than 20% of all residents); <i>or</i></li> <li>– all residents with means under prescribed threshold</li> </ul>	<b>C.128:</b> All employees, including apprentices; <i>or</i> <ul style="list-style-type: none"> <li>– at least 75% of economically active population; <i>or</i></li> <li>– all residents, or residents with means under prescribed threshold.</li> </ul> <b>R.131:</b> Coverage should be extended to persons in casual employment and all economically active persons. Benefits should not be suspended solely for reason of being absent from territory.	At least all residents, subject to the country's existing international obligations.
<b>What should the benefit be?</b>	<i>Periodic payment:</i> at least 40% of reference wage. Adjustment following substantial changes in general level of earnings which result from substantial changes in the cost of living.	<b>C.128:</b> <i>Periodic payment:</i> at least 50% of reference wage; adjustment following substantial changes in general level of earnings or of the cost of living. Provision of rehabilitation services as well as measures to further the placement of disabled persons in suitable employment. <b>R.131:</b> Periodic payment should be increased to at least 60% of reference wage. Minimum amount of disability benefit should be fixed by legislation to ensure a minimum standard of living. The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living. Reduced benefit for partial invalidity.	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity.

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Convention No. 128 and Recommendation No. 131 Advanced standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What should the benefit duration be?</b>	As long as the person remains unable to engage in gainful employment or until old-age pension is paid.	As long as the person remains incapacitated or until old-age pension is paid.	As long as the inability to earn a sufficient income remains.
<b>What conditions can be prescribed for entitlement to a benefit?</b>	<p>15 years of contributions or employment (for contributory schemes) or 10 years of residence (for non-contributory schemes); <i>or</i></p> <p><i>if all EAP covered:</i> 3 years of contributions and meet the yearly average number of contributions prescribed;</p> <p>Entitlement to a reduced benefit after 5 years of contributions or employment; <i>or</i></p> <p><i>if all EAP covered:</i> 3 years of contributions and meet half the yearly average number of contributions prescribed.</p>	<p><b>C.128:</b> Same as <b>C.102</b>.</p> <p><b>R.131:</b> Five years of contributions, employment or residence; qualifying period should be removed (or reduced) for young workers or where invalidity is due to an accident.</p> <p>Periods of incapacity due to sickness, accident or maternity and periods of involuntary unemployment, in respect of which benefit was paid, and compulsory military service, should be assimilated to periods of contribution or employment for calculation of the qualifying period fulfilled.</p>	Entitlement conditions should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion and ensuring the rights and dignity of persons with disabilities.

Table 11. Main requirements: ILO social security standards on survivors' benefits

	ILO Convention No. 102 Minimum standards	ILO Convention No. 128 and Recommendation No. 131 Advanced standards	ILO Recommendation No. 202 Basic protection
<b>What should be covered?</b>	Widow's or children's loss of support in the event of death of the breadwinner.	<b>C.128:</b> Widow's or children's loss of support in case of death of breadwinner. <b>R.131:</b> Same as <b>C.128</b> .	At least basic income security for those who are unable to earn a sufficient income due to the absence of family support.
<b>Who should be protected?</b>	Wives and children of breadwinners in categories of employees representing at least 50% of all employees; <i>or</i> wives and children of members of categories of economically active population representing at least 20% of all residents; <i>or</i> all resident widows and children with means under prescribed threshold.	<b>C.128:</b> <ul style="list-style-type: none"> <li>– Wives, children and other dependants of employees or apprentices; <i>or</i></li> <li>– wives, children and other dependants forming not less than 75% of economically active population; <i>or</i></li> <li>– all widows, children and other dependants who are residents; <i>or</i></li> <li>– who are residents and whose means are under prescribed threshold.</li> </ul> <b>R.131:</b> In addition, coverage should progressively be extended to wives and children and other dependants of persons in casual employment or all economically active persons. Also, an invalid and dependent widower should enjoy same entitlements as a widow. Benefits should not be suspended solely for reason of being absent from territory.	At least all residents and children, subject to the country's existing international obligations.

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Convention No. 128 and Recommendation No. 131 Advanced standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What should the benefit be?</b>	<i>Periodic payment:</i> at least 40% of reference wage; adjustment following substantial changes in general level of earnings which result from substantial changes in the cost of living.	<p><b>C.128:</b> <i>Periodic payment:</i> at least 45% of reference wage; adjustment of benefits following to substantial changes in general level of earnings or of the cost of living.</p> <p><b>R.131:</b> Benefits should be increased to at least 55% of reference wage; a minimum survivors' benefit should be fixed to ensure a minimum standard of living.</p> <p>The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living.</p> <p>Allowances or lump-sum benefits for widows who do not fulfil prescribed entitlement conditions, and/or assistance and facilities to obtain suitable employment.</p> <p>Benefits provided through a contributory scheme should not be suspended solely because the person entitled to the benefits is gainfully occupied.</p>	Benefits in cash or in kind should ensure at least basic income security so as to secure effective access to necessary goods and services at a level that prevents or alleviates poverty, vulnerability and social exclusion and enables life in dignity. Levels should be regularly reviewed.
<b>What should the benefit duration be?</b>	Until children reach 15 years of age; or school leaving age; until widows are remarried.	<p><b>C.128 and R.131:</b> Until children reach 15 years of age or school leaving age, or higher if apprentice, student or has a chronic illness/disability;</p> <p>Widows, unless engaged in gainful activity or remarried.</p>	As long as the inability to earn a sufficient income remains.

	<b>ILO Convention No. 102 Minimum standards</b>	<b>ILO Convention No. 128 and Recommendation No. 131 Advanced standards</b>	<b>ILO Recommendation No. 202 Basic protection</b>
<b>What conditions can be prescribed for entitlement to a benefit?</b>	<p>15 years of contributions or employment (for contributory schemes) or 10 years of residence (for non-contributory schemes); <i>or</i> <i>if all EAP covered</i>: 3 years of contributions and meet the yearly average number of contributions prescribed;</p> <p>Entitlement to a reduced benefit after five years of contributions or employment; <i>or</i> <i>if all EAP covered</i>: 3 years of contributions and meet half the yearly average number of contributions prescribed.</p> <p>For widows, benefits may be conditional on being presumed incapable of self-support.</p>	<p><b>C.128:</b> Same as <b>C.102</b>; In addition, possible to require a prescribed age for widow, not higher than that prescribed for old-age benefit. No requirement of age for an invalid widow or a widow caring for a dependent child of deceased. A minimum duration of marriage may be required for a widow who is without child.</p> <p><b>R.131:</b> Five years of contributions, employment or residence; Same as <b>C128</b>. Periods of incapacity due to sickness, accident or maternity and periods of involuntary unemployment, in respect of which benefit was paid and compulsory military service, should be assimilated to periods of contribution or employment for calculation of the qualifying period fulfilled.</p> <p>Widows' benefits may be conditional on the attainment of a prescribed age.</p>	<p>Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.</p>

### Annex III. Table of ratification of ILO up-to-date social security conventions

**Table 12. Ratification of ILO up-to-date social security conventions, by region**

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
<b>AFRICA</b>										
Benin				<b>C.102 (2019)</b> <sup>1</sup>	<b>C.102 (2019)</b> <sup>1</sup>	<b>C.102 (2019)</b> <sup>1</sup>	<b>C.102 (2019)</b> <sup>1</sup> C.183 (2012)	<b>C.102 (2019)</b> <sup>1</sup>	<b>C.102 (2019)</b> <sup>1</sup>	
Burkina Faso							C.183 (2013)			
Cabo Verde	<i>C.118 (1987)</i>	<b>C.102 (2020)</b> <sup>2</sup> <i>C.118 (1987)</i>		<b>C.102 (2020)</b> <sup>2</sup> <i>C.118 (1987)</i>	<i>C.118 (1987)</i>	<b>C.102 (2020)</b> <sup>2</sup> <i>C.118 (1987)</i>	<i>C.118 (1987)</i>	<i>C.118 (1987)</i>	<i>C.118 (1987)</i>	<i>C.118 (1987)</i>
Central African Republic				<i>C.118 (1964)</i>	<i>C.118 (1964)</i>	<i>C.118 (1964)</i>	<i>C.118 (1964)</i>			<i>C.118 (1964)</i>
Chad				<b>C.102 (2015)</b>	<b>C.102 (2015)</b>	<b>C.102 (2015)</b>		<b>C.102 (2015)</b>	<b>C.102 (2015)</b>	
Congo, Democratic Republic of the				<b>C.102 (1987)</b> <i>C.118 (1967)</i>	<i>C.121 (1967)</i> <i>C.118 (1967)</i>	<b>C.102 (1987)</b>		<b>C.102 (1987)</b> <i>C.118 (1967)</i>	<b>C.102 (1987)</b>	<i>C.118 (1967)</i>
Egypt	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>		<i>C.118 (1993)</i>	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>	<i>C.118 (1993)</i>
Guinea	<i>C.118 (1967)</i>	<i>C.118 (1967)</i>		<i>C.118 (1967)</i>	<i>C.121 (1967)</i> <i>C.118 (1967)</i>	<i>C.118 (1967)</i>	<i>C.118 (1967)</i>		<i>C.118 (1967)</i>	<i>C.118 (1967)</i>
Kenya				<i>C.118 (1971)</i>				<i>C.118 (1971)</i>	<i>C.118 (1971)</i>	<i>C.118 (1971)</i>
Libya	<b>C.102 (1975)</b> C.130 (1975) <i>C.118 (1975)</i>	<b>C.102 (1975)</b> C.130 (1975) <i>C.118 (1975)</i>	<b>C.102 (1975)</b>  <i>C.118 (1975)</i>	<b>C.102 (1975)</b> C.128 (1975) <i>C.118 (1975)</i>	<b>C.102 (1975)</b> C.121 (1975) <i>C.118 (1975)</i>	<b>C.102 (1975)</b>  <i>C.118 (1975)</i>	<b>C.102 (1975)</b>  <i>C.118 (1975)</i>	<b>C.102 (1975)</b> C.128 (1975) <i>C.118 (1975)</i>	<b>C.102 (1975)</b> C.128 (1975) <i>C.118 (1975)</i>	<i>C.118 (1975)</i>
Madagascar		<i>C.118 (1964)</i>			<i>C.118 (1964)</i>		<i>C.118 (1964)</i>	<i>C.118 (1964)</i>		<i>C.118 (1964)</i>

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.102 C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
Mali							C.183 (2008)			
Mauritania				<b>C.102 (1968)</b> C.118 (1968)	<b>C.102 (1968)</b> C.118 (1968)	<b>C.102 (1968)</b> C.118 (1968)		<b>C.102 (1968)</b> C.118 (1968)	<b>C.102 (1968)</b> C.118 (1968)	C.118 (1968)
Mauritius							C.183 (2019) <sup>3</sup>			
Morocco	<b>C.102 (2019) <sup>4</sup></b>	<b>C.102 (2019) <sup>4</sup></b>		<b>C.102 (2019) <sup>4</sup></b>	<b>C.102 (2019) <sup>4</sup></b>	<b>C.102 (2019) <sup>4</sup></b>	<b>C.102 (2019) <sup>4</sup></b> C.183 (2011)	<b>C.102 (2019) <sup>4</sup></b>	<b>C.102 (2019) <sup>4</sup></b>	
Niger				<b>C.102 (1966)</b>	<b>C.102 (1966)</b>	<b>C.102 (1966)</b>	<b>C.102 (1966)</b> C.183 (2019) <sup>5</sup>			
Rwanda				C.118 (1989)	C.118 (1989)			C.118 (1989)	C.118 (1989)	C.118 (1989)
Sao Tome and Principe							C.183 (2017)			
Senegal					<b>C.102 (1962)</b> C.121 (1966)	<b>C.102 (1962)</b>	<b>C.102 (1962)</b> C.183 (2017)			
Togo				<b>C.102 (2013)</b>		<b>C.102 (2013)</b>	<b>C.102 (2013)</b>		<b>C.102 (2013)</b>	
Tunisia	C.118 (1965)	C.118 (1965)		C.118 (1965)	C.118 (1965)	C.118 (1965)	C.118 (1965)	C.118 (1965)	C.118 (1965)	C.118 (1965)
<b>AMERICAS</b>										
Argentina	<b>C.102 (2016)</b>			<b>C.102 (2016)</b>		<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	
Barbados		<b>C.102 (1972)</b> C.118 (1974)		<b>C.102 (1972)</b> C.128 (1972) C.118 (1974)	<b>C.102 (1972)</b> C.118 (1974)		C.118 (1974)	<b>C.102 (1972)</b> C.128 (1972)	<b>C.102 (1972)</b> C.118 (1974)	C.118 (1974)
Belize							C.183 (2005)			
Bolivia, Plurinational State of	<b>C.102 (1977)</b> C.130 (1977) C.118 (1977)	<b>C.102 (1977)</b> C.130 (1977) C.118 (1977)		<b>C.102 (1977)</b> C.128 (1977)	<b>C.102 (1977)</b> C.121 (1977)	<b>C.102 (1977)</b> C.118 (1977)	<b>C.102 (1977)</b> C.118 (1977)	<b>C.102 (1977)</b> C.128 (1977)	<b>C.102 (1977)</b> C.128 (1977)	C.118 (1977)
Brazil	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b> C.168 (1993)	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b>	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b> C.118 (1969)	<b>C.102 (2009)</b> C.118 (1969)	C.118 (1969)

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
Chile					C.121 (1999)					
Costa Rica	<b>C.102 (1972)</b> C.130 (1972)	C.130 (1972)		<b>C.102 (1972)</b>	<b>C.102 (1972)</b>	<b>C.102 (1972)</b>	<b>C.102 (1972)</b>	<b>C.102 (1972)</b>	<b>C.102 (1972)</b>	
Cuba							C.183 (2004)			
Dominican Republic	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>		<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b> C.183 (2016)	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	
Ecuador	C.130 (1978) C.118 (1970)	<b>C.102 (1974)</b> C.130 (1978) C.118 (1970)		<b>C.102 (1974)</b> C.128 (1978)	<b>C.102 (1974)</b> C.121 (1978) C.118 (1970)		C.118 (1970)	<b>C.102 (1974)</b> C.128 (1978) C.118 (1970)	<b>C.102 (1974)</b> C.128 (1978) C.118 (1970)	C.118 (1970)
Guatemala							C.118 (1963)			C.118 (1963)
Honduras	<b>C.102 (2012)</b>	<b>C.102 (2012)</b>		<b>C.102 (2012)</b>			<b>C.102 (2012)</b>	<b>C.102 (2012)</b>	<b>C.102 (2012)</b>	
Mexico	<b>C.102 (1961)</b> C.118 (1978)	<b>C.102 (1961)</b> C.118 (1978)		<b>C.102 (1961)</b> C.118 (1978)	<b>C.102 (1961)</b> C.118 (1978)		<b>C.102 (1961)</b> C.118 (1978)	<b>C.102 (1961)</b> C.118 (1978)	<b>C.102 (1961)</b> C.118 (1978)	C.118 (1978)
Peru	<b>C.102 (1961)</b>	<b>C.102 (1961)</b>		<b>C.102 (1961)</b>			<b>C.102 (1961)</b> C.183 (2016)	<b>C.102 (1961)</b>		
Saint-Vincent and the Grenadines	<b>C.102 (2015)</b>	<b>C.102 (2015)</b>		<b>C.102 (2015)</b>	<b>C.102 (2015)</b>		<b>C.102 (2015)</b>	<b>C.102 (2015)</b>	<b>C.102 (2015)</b>	
Suriname					C.118 (1976)					C.118 (1976)
Uruguay	<b>C.102 (2010)</b> C.130 (1973) C.118 (1983)	C.130 (1973) C.118 (1983)	<b>C.102 (2010)</b>  C.118 (1983)	C.128 (1973)	C.121 (1973) <sup>6</sup> C.118 (1983)	<b>C.102 (2010)</b>  C.118 (1983)	<b>C.102 (2010)</b>  C.118 (1983)	C.128 (1973)	C.128 (1973)	C.118 (1983)
Venezuela, Bolivarian Republic of	<b>C.102 (1982)</b> C.130 (1982) C.118 (1982)	<b>C.102 (1982)</b> C.130 (1982) C.118 (1982)		<b>C.102 (1982)</b> C.128 (1983) C.118 (1982)	<b>C.102 (1982)</b> C.121 (1982) C.118 (1982)		<b>C.102 (1982)</b>  C.118 (1982)	<b>C.102 (1982)</b> C.128 (1983) C.118 (1982)	<b>C.102 (1982)</b> C.128 (1983) C.118 (1982)	C.118 (1982)

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
<b>ARAB STATES</b>										
Iraq	C.118 (1978)	C.118 (1978)		C.118 (1978)	C.118 (1978)		C.118 (1978)	C.118 (1978)	C.118 (1978)	C.118 (1978)
Jordan				<b>C.102 (2014)</b>	<b>C.102 (2014)</b> C.118 (1963)		C.118 (1963)	<b>C.102 (2014)</b> C.118 (1963)	<b>C.102 (2014)</b> C.118 (1963)	C.118 (1963)
Syrian Arab Republic				C.118 (1963)	C.118 (1963)			C.118 (1963)	C.118 (1963)	C.118 (1963)
<b>ASIA AND THE PACIFIC</b>										
Azerbaijan							C.183 (2010)			
Bangladesh					C.118 (1972)		C.118 (1972)			C.118 (1972)
India	C.118 (1964)	C.118 (1964)					C.118 (1964)			C.118 (1964)
Japan		<b>C.102 (1976)</b>	<b>C.102 (1976)</b>	<b>C.102 (1976)</b>	<b>C.102 (1976)</b> C.121 (1974) <sup>6</sup>					
Kazakhstan							C.183 (2012)			
Kyrgyzstan										C.157 (2008)
Pakistan					C.118 (1969)		C.118 (1969)			C.118 (1969)
Philippines	C.118 (1994)	C.118 (1994)		C.118 (1994)	C.118 (1994)		C.118 (1994)	C.118 (1994)	C.118 (1994)	C.118 (1994) C.157 (1994)
<b>EUROPE</b>										
Albania	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>	<b>C.102 (2006)</b> C.168 (2006)	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>		<b>C.102 (2006)</b> C.183 (2004)	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>	
Austria	<b>C.102 (1969)</b>		<b>C.102 (1978)</b>	<b>C.102 (1969)</b> C.128 (1969)		<b>C.102 (1969)</b>	<b>C.102 (1969)</b> C.183 (2004)			
Belarus							C.183 (2004)			
Belgium	<b>C.102 (1959)</b> C.130 (2017)	<b>C.102 (1959)</b> C.130 (2017)	<b>C.102 (1959)</b> C.168 (2011)	<b>C.102 (1959)</b> C.128 (2017)	<b>C.102 (1959)</b> C.121 (1970)	<b>C.102 (1959)</b>	<b>C.102 (1959)</b>	<b>C.102 (1959)</b> C.128 (2017)	<b>C.102 (1959)</b> C.128 (2017)	

Country	Branch									Migrant workers <sup>a</sup>  C.118 <sup>b</sup> C.157
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
Bosnia and Herzegovina	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	<b>C.102 (1993)</b> C.121 (1993)		<b>C.102 (1993)</b> C.183 (2010)		<b>C.102 (1993)</b>	
Bulgaria	<b>C.102 (2008)</b>	<b>C.102 (2008)</b>	<b>C.102 (2016)</b> <sup>5</sup>	<b>C.102 (2008)</b>	<b>C.102 (2008)</b>	<b>C.102 (2008)</b>	<b>C.102 (2008)</b> C.183 (2001)		<b>C.102 (2008)</b>	
Croatia	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b> C.121 (1991)		<b>C.102 (1991)</b>		<b>C.102 (1991)</b>	
Cyprus		<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b> C.121 (1966)		C.183 (2005)	<b>C.102 (1991)</b>	<b>C.102 (1991)</b> C.128 (1969)	
Czech Republic	<b>C.102 (1993)</b> C.130 (1993)	<b>C.102 (1993)</b> C.130 (1993)		<b>C.102 (1993)</b> C.128 (1993)		<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	
Denmark	<b>C.102 (1955)</b> C.130 (1978) C.118 (1969)	C.130 (1978) C.118 (1969)	<b>C.102 (1955)</b>  C.118 (1969)	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>  C.118 (1969)			<b>C.102 (1955)</b>		C.118 (1969)
Finland	C.130 (1974) C.118 (1969)	C.130 (1974) C.118 (1969)	C.168 (1990)	C.128 (1976)	C.121 (1968) <sup>6</sup> C.118 (1969)			C.128 (1976)	C.128 (1976)	C.118 (1969)
France	<b>C.102 (1974)</b> C.118 (1974)	C.118 (1974)	<b>C.102 (1974)</b>	<b>C.102 (1974)</b>	<b>C.102 (1974)</b> C.118 (1974)	<b>C.102 (1974)</b> C.118 (1974)	<b>C.102 (1974)</b> C.118 (1974)	<b>C.102 (1974)</b> C.118 (1974)	C.118 (1974)	C.118 (1974)
Germany	<b>C.102 (1958)</b> C.130 (1974) C.118 (1971)	<b>C.102 (1958)</b> C.130 (1974) C.118 (1971)	<b>C.102 (1958)</b>  C.118 (1971)	<b>C.102 (1958)</b> C.128 (1971)	<b>C.102 (1958)</b> C.121 (1972) C.118 (1971)	<b>C.102 (1958)</b>	<b>C.102 (1958)</b>  C.118 (1971)	<b>C.102 (1958)</b> C.128 (1971)	<b>C.102 (1958)</b> C.128 (1971)	C.118 (1971)
Greece	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>		<b>C.102 (1955)</b>	<b>C.102 (1955)</b>	<b>C.102 (1955)</b>	
Hungary							C.183 (2003)			
Iceland				<b>C.102 (1961)</b>		<b>C.102 (1961)</b>		<b>C.102 (1961)</b>		
Ireland	C.118 (1964)	<b>C.102 (1968)</b> C.118 (1964)	<b>C.102 (1968)</b> C.118 (1964)		C.121 (1969) C.118 (1964)	C.118 (1964)			<b>C.102 (1968)</b>	C.118 (1964)
Israel				<b>C.102 (1955)</b> C.118 (1965)	<b>C.102 (1955)</b> C.118 (1965)	C.118 (1965)	C.118 (1965)		<b>C.102 (1955)</b> C.118 (1965)	C.118 (1965)

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
Italy				<b>C.102 (1956)</b>		<b>C.102 (1956)</b>	<b>C.102 (1956)</b> C.183 (2001) C.118 (1967)			
	C.118 (1967)	C.118 (1967)		C.118 (1967)	C.118 (1967)	C.118 (1967)				
Latvia							C.183 (2009)			
Lithuania							C.183 (2003)			
Luxembourg	<b>C.102 (1964)</b> C.130 (1980)	<b>C.102 (1964)</b> C.130 (1980)	<b>C.102 (1964)</b>	<b>C.102 (1964)</b>	<b>C.102 (1964)</b> C.121 (1972)	<b>C.102 (1964)</b>	<b>C.102 (1964)</b> C.183 (2008)	<b>C.102 (1964)</b>	<b>C.102 (1964)</b>	
Moldova, Republic of							C.183 (2006)			
Montenegro	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>	<b>C.102 (2006)</b>	<b>C.102 (2006)</b> C.121 (2006)		<b>C.102 (2006)</b> C.183 (2012)		<b>C.102 (2006)</b>	
Netherlands	<b>C.102 (1962)</b> C.130 (2006)	<b>C.102 (1962)</b> C.130 (2006)	<b>C.102 (1962)</b>	<b>C.102 (1962)</b> C.128 (1969)	<b>C.102 (1962)</b> C.121 (1966) <sup>6</sup>	<b>C.102 (1962)</b>	<b>C.102 (1962)</b> C.183 (2009)	<b>C.102 (1962)</b> C.128 (1969)	<b>C.102 (1962)</b> C.128 (1969)	
North Macedonia	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b>	<b>C.102 (1991)</b> C.121 (1991)		<b>C.102 (1991)</b> C.183 (2012)		<b>C.102 (1991)</b>	
Norway	<b>C.102 (1954)</b> C.130 (1972)	<b>C.102 (1954)</b> C.130 (1972)	<b>C.102 (1954)</b> C.168 (1990)	<b>C.102 (1954)</b> C.128 (1968)	<b>C.102 (1954)</b>	<b>C.102 (1954)</b>  C.118 (1963)	C.183 (2015)	C.128 (1968)	C.128 (1968) C.118 (1963)	C.118 (1963)
Poland	<b>C.102 (2003)</b>			<b>C.102 (2003)</b>		<b>C.102 (2003)</b>	<b>C.102 (2003)</b>		<b>C.102 (2003)</b>	
Portugal	<b>C.102 (1994)</b>	<b>C.102 (1994)</b>	<b>C.102 (1994)</b> C.183 (2012)	<b>C.102 (1994)</b>	<b>C.102 (1994)</b>					
Romania	<b>C.102 (2009)</b>	<b>C.102 (2009)</b>		<b>C.102 (2009)</b>		<b>C.102 (2009)</b>	<b>C.102 (2009)</b> C.183 (2002)			
			C.168 (1992)							
Russian Federation	<b>C.102 (2019) <sup>7</sup></b>	<b>C.102 (2019) <sup>7</sup></b>		<b>C.102 (2019) <sup>7</sup></b>	<b>C.102 (2019) <sup>7</sup></b>		<b>C.102 (2019) <sup>7</sup></b>	<b>C.102 (2019) <sup>7</sup></b>	<b>C.102 (2019) <sup>7</sup></b>	
San Marino							C.183 (2019) <sup>8</sup>			
Serbia	<b>C.102 (2000)</b>	<b>C.102 (2000)</b>	<b>C.102 (2000)</b>	<b>C.102 (2000)</b>	<b>C.102 (2000)</b> C.121 (2000)		<b>C.102 (2000)</b> C.183 (2010)		<b>C.102 (2000)</b>	
Slovakia	<b>C.102 (1993)</b> C.130 (1993)	<b>C.102 (1993)</b> C.130 (1993)		<b>C.102 (1993)</b> C.128 (1993)		<b>C.102 (1993)</b>	<b>C.102 (1993)</b> C.183 (2000)	<b>C.102 (1993)</b>	<b>C.102 (1993)</b>	

Country	Branch									Migrant workers <sup>a</sup>
	Medical care	Sickness	Unemployment	Old age	Employment injury	Family	Maternity	Invalidity	Survivors	
	<b>C.102</b> C.130 C.118	<b>C.102</b> C.130 C.118	<b>C.102</b> C.168 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.121 C.118	<b>C.102</b>  C.118	<b>C.102</b> C.183 C.118	<b>C.102</b> C.128 C.118	<b>C.102</b> C.128 C.118	
Slovenia	<b>C.102 (1992)</b>	<b>C.102 (1992)</b>	<b>C.102 (1992)</b>	<b>C.102 (1992)</b>	<b>C.102 (1992)</b> C.121 (1992)		<b>C.102 (1992)</b> C.183 (2010)		<b>C.102 (1992)</b>	
Spain	<b>C.102 (1988)</b>	<b>C.102 (1988)</b>	<b>C.102 (1988)</b>		<b>C.102 (1988)</b>					C.157 (1985)
Sweden	<b>C.102 (1953)</b> C.130 (1970) C.118 (1963)	<b>C.102 (1953)</b> C.130 (1970) C.118 (1963)	<b>C.102 (1953)</b> C.168 (1990) C.118 (1963)	C.128 (1968)	<b>C.102 (1953)</b> C.121 (1969) C.118 (1963)	<b>C.102 (1953)</b>	<b>C.102 (1953)</b>  C.118 (1963)	C.128 (1968)	C.128 (1968)	C.157 (1984) C.118 (1963)
Switzerland			C.168 (1990)	<b>C.102 (1977)</b> C.128 (1977)	<b>C.102 (1977)</b>	<b>C.102 (1977)</b>	C.183 (2014)	<b>C.102 (1977)</b> C.128 (1977)	<b>C.102 (1977)</b> C.128 (1977)	
Turkey	<b>C.102 (1975)</b> C.118 (1974)	<b>C.102 (1975)</b> C.118 (1974)		<b>C.102 (1975)</b> C.118 (1974)	<b>C.102 (1975)</b> C.118 (1974)		<b>C.102 (1975)</b> C.118 (1974)	<b>C.102 (1975)</b> C.118 (1974)	<b>C.102 (1975)</b> C.118 (1974)	C.118 (1974)
Ukraine	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	<b>C.102 (2016)</b>	
United Kingdom	<b>C.102 (1954)</b>	<b>C.102 (1954)</b>	<b>C.102 (1954)</b>	<b>C.102 (1954)</b>		<b>C.102 (1954)</b>			<b>C.102 (1954)</b>	

Notes: <sup>a</sup> While all international social security standards apply to migrant workers unless otherwise stated, C.118 and C.157 are of particular relevance to migrant workers. <sup>b</sup> Parts of C.118 apply for selected branches (see other columns).

<sup>1</sup> *Benin*: C.102 entered into force on 14 June 2020.

<sup>2</sup> *Cabo Verde*: C.102 entered into force on 10 January 2021.

<sup>3</sup> *Mauritius*: C.183 entered into force on 13 June 2020.

<sup>4</sup> *Morocco*: C.102 entered into force on 14 June 2020.

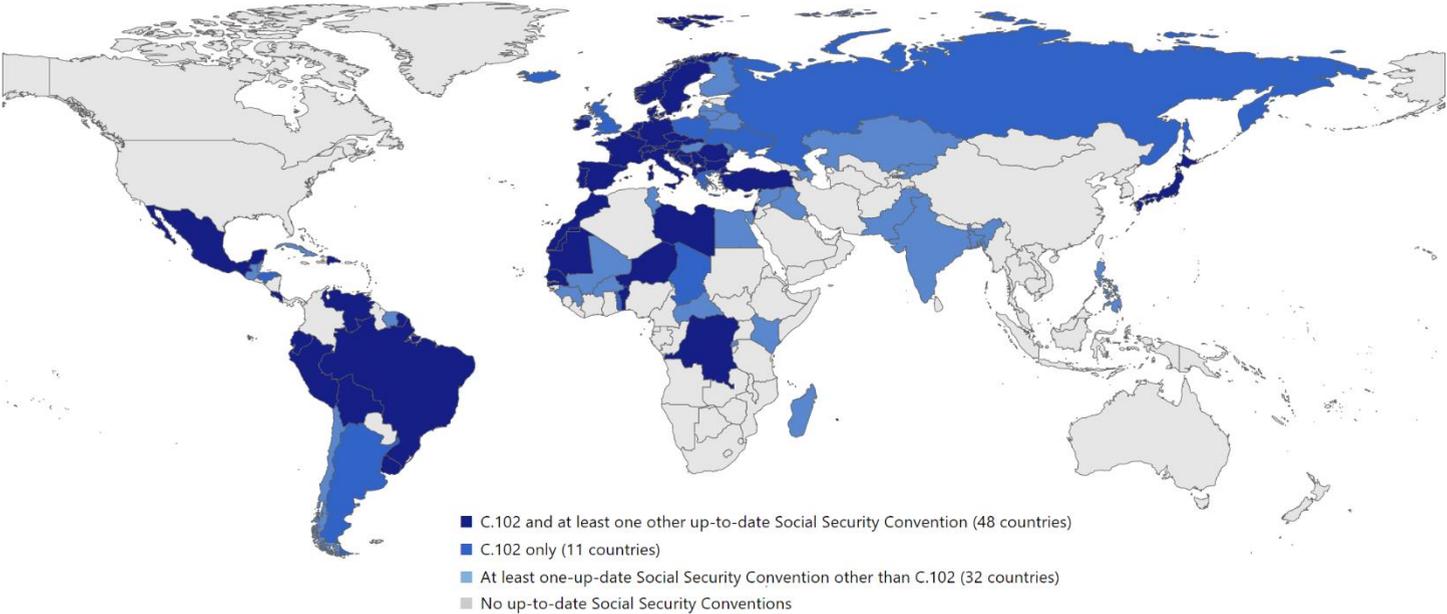
<sup>5</sup> *Niger*: C.183 entered into force on 10 June 2020.

<sup>6</sup> *Finland, Japan, Netherlands, Uruguay*: Accepted the text of the List of Occupational Diseases (Schedule I) amended by the ILC at its 66th Session (1980).

<sup>7</sup> *Russian Federation*: C.102 entered into force on 26 February 2020.

<sup>8</sup> *San Marino*: C.183 entered into force on 19 June 2020.

**Annex IV. Map of ratification of ILO up-to-date social security conventions**



## **Annex V. List of other relevant instruments**

### **International human rights instruments**

Convention on the Elimination of All Forms of Racial Discrimination, 1965

Convention relating to the Status of Refugees, 1951 and Convention relating to the Status of Stateless Persons, 1954

Declaration on the Rights of Indigenous Peoples, 2007

International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990

### **Regional human rights instruments**

#### **Africa**

The African Charter on Human and Peoples' Rights, 1981

#### **Americas**

American Declaration on the Rights and Duties of Persons, 1948

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988

Inter-American Convention on Protection the Human Rights of Older Persons, 2015

#### **Arab States**

The Arab Charter on Human Rights, 2004

#### **Association of Southeast Asian Nations**

ASEAN Human Rights Declaration, 2013

#### **Commonwealth of Independent States**

Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms, 1995

#### **Europe**

Charter of Fundamental Rights of the European Union, 2000

The European Social Charter, 1961

### **Regional social security instruments**

European Code of Social Security, 1964

## Regional coordination instruments

ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, 2007

CAN Andean Social Security Instrument, 2004

CARICOM Agreement on Social Security, 1996

CIPRES Multilateral Convention on Social Security, 2006

Council of Europe. Conference on Access to Social Rights – Declaration of Malta, 2002

Ibero-American Multilateral Agreement on Social Security, 2007

Inter-American Conference on Social Security (CISS), 1942

ISSA-IAPSF Declaration on Social Security of Migrant Labour and Globalization, 2005

Mercosur Multilateral Social Security Agreement, 1991

Multilateral Convention on Social Security of the Members of the Inter-African Conference on Organization of Eastern Caribbean States (OECS), 1991

SADC Code of Social Security, 2007

Unified Law on Insurance Protection Extension (covering the six member-states of the Gulf Cooperation Council), 1981

## Other relevant ILO standards covering specific categories of workers

### Agricultural workers

C110 – Plantations Convention, 1958 (No. 110)

P110 – Protocol of 1982 to the Plantations Convention, 1958

R110 – Plantations Recommendation, 1958 (No. 110)

R132 – Tenants and Share-croppers Recommendation, 1968 (No. 132)

### Domestic workers

C189 – Domestic Workers Convention, 2011 (No. 189)

R201 – Domestic Workers Recommendation, 2011 (No. 201)

### Fishers

C188 – Work in Fishing Convention, 2007 (No. 188)

R199 – Work in Fishing Recommendation, 2007 (No. 199)

### Homeworkers

C177 – Home Work Convention, 1996 (No. 177)

R184 – Home Work Recommendation, 1996 (No. 184)

### Indigenous and tribal peoples

C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169)

R104 – Indigenous and Tribal Populations Recommendation, 1957 (No. 104)

**Migrant workers**

C097 – Migration for Employment Convention (Revised), 1949 (No. 97)

R086 – Migration for Employment Recommendation (Revised), 1949 (No. 86)

C143 – Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

R151 – Migrant Workers Recommendation, 1975 (No. 151)

**Nursing personnel**

C149 – Nursing Personnel Convention, 1977 (No. 149)

R157 – Nursing Personnel Recommendation, 1977 (No. 157)

**Part-time workers**

C175 – Part-Time Work Convention, 1994 (No. 175)

R182 – Part-Time Work Recommendation, 1994 (No. 182)

**Persons with disabilities**

R168 – Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168)

**Seafarers**

MLC, 2006 – Maritime Labour Convention, 2006 (MLC, 2006)

**Workers in an employment relationship**

R198 - Employment Relationship Recommendation, 2006 (No. 198)

**Workers with family responsibilities**

C156 – Workers with Family Responsibilities Convention, 1981 (No. 156)

R165 – Workers with Family Responsibilities Recommendation, 1981 (No. 165)

**Older workers**

R162 – Older Workers Recommendation, 1980 (No. 162)

## Annex VI. Additional useful references

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## Relevant web pages

International Labour Organization: [www.ilo.org](http://www.ilo.org).

International Labour Standards Department: [www.ilo.org/normes](http://www.ilo.org/normes).

International Social Protection Department: <http://www.ilo.org/secsoc>.

NORMLEX ([www.ilo.org/normlex](http://www.ilo.org/normlex)) is an information system which contains information on International Labour Standards (such as ratification information, reporting requirements, comments of the ILO's supervisory bodies, etc.) as well as national labour and social security laws.

Social Protection Platform ([www.social-protection.org](http://www.social-protection.org)) is a global knowledge sharing tool, developed and run by the Social Protection Department.

Social Protection and Human Rights Platform ([www.socialprotection-humanrights.org](http://www.socialprotection-humanrights.org)) is a joint UN platform with the aim to enhance awareness of, and develop the capacity to, implement a human rights-based approach to social protection.

Toolkit on ILO Social Security Standards – learn, ratify and apply (<https://www.social-protection.org/gimi/Standards.action?lang=EN>) is an interactive platform that provides practical information and tools on the ratification and application of the ILO Social Security Standards.