

INTERNATIONAL LABOUR ORGANIZATION

Proposed Actions

by the

REPUBLIC OF KENYA

on the

CONVENTIONS AND RECOMMENDATIONS

adopted by the

INTERNATIONAL LABOUR CONFERENCE

at the

65TH TO 80TH SESSIONS (1993)

Convention No. 152

CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK

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

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

Convention No. 153

CONCERNING THE HOURS OF WORK AND REST PERIOD IN ROAD TRANSPORT

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

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

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

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

Convention No. 154

CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING

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

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

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

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

Convention No. 155

CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT

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

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

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

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

Convention No. 156

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

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

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

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

Convention No. 157

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

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

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

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

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

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

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

Convention No. 158

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

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

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

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

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

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

Recommendation 160

CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK

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

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

Recommendation 161

CONCERNING HOURS OF WORK AND REST AND PERIOD IN ROAD TRANSPORT

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

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

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

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

Recommendation 162

CONCERNING OLDER WORKERS

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

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

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

Recommendation 163

CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING

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

Recommendation 164

CONCERNING OCCUPATIONAL HEALTH AND WORKING ENVIRONMENT

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

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

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

Recommendation 165

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

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

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

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

CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

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

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

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

Recommendation 166

CONCERNING TERMINATION OF EMPLOYMENT

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

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

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

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

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

Recommendation 167

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

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

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

Recommendation 168

CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

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

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

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

Recommendation 169

CONCERNING EMPLOYMENT POLICY

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

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

Convention No. 160

CONCERNING LABOUR STATISTICS

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

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

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

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

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

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

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

Recommendation No. 170

CONCERNING LABOUR STATISTICS

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

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

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

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

Convention No. 161

CONCERNING OCCUPATIONAL HEALTH SERVICES

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

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

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

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

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

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

Recommendation 171

CONCERNING OCCUPATIONAL HEALTH SERVICES

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

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

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

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

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

Convention No. 162

CONCERNING SAFETY IN THE USE OF ASBESTOS

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

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

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

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

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

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

Recommendation 172

CONCERNING SAFETY IN THE USE OF ASBESTOS

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

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

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

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

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

Convention No. 163

ON SEAFARERS' WELFARE AT SEA AND IN PORT

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

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

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

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

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

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

Convention No. 164

CONCERNING HEALTH PROTECTION AND MEDICAL CARE FOR SEAFARERS

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

The Convention requires ratifying countries to—

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

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

Convention No. 165

CONCERNING SOCIAL SECURITY FOR SEAFARERS (REVISED) 1987

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

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

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

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

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

Convention No. 166

CONCERNING THE REPATRIATION OF SEAFARERS (REVISED)

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

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

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

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

Convention No. 167

CONCERNING SAFETY AND HEALTH IN CONSTRUCTION

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

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

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

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

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

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

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

Convention No. 168

CONCERNING EMPLOYMENT PROMOTION AND PROTECTION AGAINST UNEMPLOYMENT, 1988

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

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

Convention No. 169

CONCERNING INDIGENOUS AND TRIBAL PEOPLES

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

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

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

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

Convention No. 170

CONCERNING SAFETY IN THE USE OF CHEMICALS AT WORK, 1990

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

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

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

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

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

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

Convention No. 171

CONCERNING NIGHT WORK, 1990

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

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

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

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

The Convention also provides for:

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

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

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

Convention No. 172

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

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

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

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

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

Convention No. 173

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

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

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

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

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

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

Convention No. 174

CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS, 1993

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

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

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

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

The Convention also applies to major hazard installations.

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

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

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

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

Recommendation 173

CONCERNING SEAFARERS' WELFARE AT SEA AND IN PORT

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

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

Recommendation 174

CONCERNING THE REPATRIATION OF SEAFARERS

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

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

Recommendation 175

CONCERNING SAFETY AND HEALTH IN CONSTRUCTION

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

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

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

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

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

Recommendation 176

CONCERNING EMPLOYMENT PROMOTION AND THE PROTECTION AGAINST UNEMPLOYMENT, 1988

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

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

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

Recommendation 177

CONCERNING SAFETY IN THE USE OF CHEMICALS AT WORK, 1990

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

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

Recommendation 178

CONCERNING NIGHT WORK, 1990

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

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

Recommendation 179

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

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

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

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

Recommendation 180

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

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

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

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

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

Recommendation 181

CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS, 1993

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

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

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

Convention concerning Occupational Safety and Health in Dock Work¹

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fifth Session on 6 June 1979, and

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

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

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

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

PART I. SCOPE AND DEFINITIONS

Article 1

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

Article 2

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

¹ Date of coming into force: 5 December 1981.

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

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

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

Article 3

For the purpose of this Convention—

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

PART II. GENERAL PROVISIONS

Article 4

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

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

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

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

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

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

Article 5

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

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

Article 6

1. There shall be arrangements under which workers —

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

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

Article 7

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

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

PART III. TECHNICAL MEASURES

Article 8

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

Article 9

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

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

Article 10

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

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

Article 11

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

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

Article 12

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

Article 13

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

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

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

4. Only an authorised person shall be permitted to—

- (a) remove any guard where this is necessary for the purpose of the work being carried out;
- (b) remove a safety device or make it inoperative for the purpose of cleaning, adjustment or repair.

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

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

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

Article 14

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

Article 15

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

Article 16

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

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

Article 17

1. Access to a ship's hold or cargo deck shall be by means of—
- (a) a fixed stairway or, where this is not practicable, a fixed ladder or cleats or cups of suitable dimensions, of adequate strength and proper construction; or
 - (b) by other means acceptable to the competent authority.

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

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

Article 18

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

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

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

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

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

Article 19

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

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

Article 20

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

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

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

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

Article 21

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

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

Article 22

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

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

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

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

Article 23

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

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

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

Article 24

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

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

Article 25

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

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

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

Article 26

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

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

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

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

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

Article 27

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

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

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

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

Article 28

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

Article 29

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

Article 30

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

Article 31

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

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

Article 32

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

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

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

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

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

Article 33

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

Article 34

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

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

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

Article 35

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

Article 36

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

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

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

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

Article 37

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

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

Article 38

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

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

Article 39

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

Article 40

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

PART IV. IMPLEMENTATION

Article 41

Each Member which ratifies this Convention shall—

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

Article 42

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

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

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

PART V. FINAL PROVISIONS

Article 43

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

Recommendation 160

RECOMMENDATION CONCERNING OCCUPATIONAL SAFETY AND HEALTH IN DOCK WORK

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fifth Session on 6 June 1979,
and

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

Having determined that these proposals shall take the form of a Recommendation supplementing the Occupational Safety and Health (Dock Work) Convention, 1979,

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

I. SCOPE AND DEFINITIONS

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

2. For the purpose of this Recommendation—

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

- (g) the term "access" includes egress;
- (h) the term "ship" covers any kind of ship, vessel, barge, lighter or hovercraft, excluding ships of war.

II. GENERAL PROVISIONS

3. In giving effect to the Occupational Safety and Health (Dock Work) Convention, 1979, each Member should take into consideration—

- (a) the provisions of the relevant conventions, regulations and recommendations adopted under the auspices of the Inter-Governmental Maritime Consultative Organisation and, in particular, those of the International Convention for Safe Containers, 1972, as at any time revised;
- (b) the relevant standards adopted by recognised international organisations dealing with matters of standardisation;
- (c) the relevant provisions of conventions, regulations and recommendations concerning inland navigation adopted under the auspices of international organisations.

4. In developing measures under Article 4, paragraph 1, of the Occupational Safety and Health (Dock Work) Convention, 1979, each Member should take into consideration the technical suggestions in the latest edition of the Code of Practice on safety and health in dock work published by the International Labour Office in so far as they appear to be appropriate and relevant in the light of national circumstances and conditions.

5. In taking the measures referred to in Article 4, paragraph 1, of the Occupational Safety and Health (Dock Work) Convention, 1979, each Member should take account of the provisions of Part III of this Recommendation, which are supplementary to those set out in Part III of that Convention.

6. With a view to preventing occupational accidents and diseases, workers should be given adequate instruction or training in safe working procedures, occupational hygiene and, where necessary, first-aid procedures and the safe operation of cargo-handling appliances.

III. TECHNICAL MEASURES

7. (1) All passageways should be—
- (a) plainly marked;
 - (b) so far as is reasonably practicable, kept free of any obstruction not related to the work in progress.
- (2) Passageways used for vehicles should, so far as is reasonably practicable, be one-way in operation.

8. (1) Wherever reasonably practicable, means of access should be so placed that no suspended loads pass over them.

(2) Wherever necessary, the means of access to a ship should be fitted with a safety net properly secured so as to prevent workers from falling into the water between the ship's side and the adjacent quay.

9. Junction plates used with ramps on roll-on/roll-off ships should be so designed and used as to be safe.

10. (1) Every hatchway on the weatherdeck not protected by means of a coaming of adequate height and strength should be effectively guarded or covered.

(2) Every 'tween-deck hatchway should, when it is open, be effectively guarded to an adequate height.

(3) Guards may be temporarily removed on any side of a hatchway where this is necessary for loading or unloading goods.

(4) If, for technical reasons, the provisions of subparagraphs (1) and (2) of this Paragraph cannot be implemented, an authorised person should ensure the safety of the workers.

(5) Deck cargoes should not be placed on nor vehicles pass over any hatch cover which is not of adequate strength for that purpose.

11. When necessary, due to the size of the hold, provision should be made for more than one means of escape.

12. Operators of lifting appliances should check the operation of their safety devices before commencing work.

13. (1) Petrol-driven vehicles or lifting appliances should not be refuelled in the hold of a ship and vehicles or lifting appliances driven by other fuels should only be refuelled in the hold of a ship under conditions which, so far as is reasonably practicable, ensure the safety of the workers.

(2) If reasonably practicable, preference should be given to the use in the hold of engines which do not pollute the air.

14. As far as is reasonably practicable, workers should not be required to work in the part of a hold where a trimming machine or grab is operating.

15. No new part of a lifting appliance or item of loose gear should be manufactured of wrought iron.

16. No heat treatment should be applied to any item of loose gear unless the treatment is carried out under the supervision of a competent person and in accordance with his instructions.

17. Suitable and adequate dunnage should be used if necessary to protect slings of pre-slung cargoes.

18. Slings which have not been approved or inspected should not under any circumstances be used for pre-slinging.

19. Every lifting beam, lifting frame, vacuum lifting or magnetic lifting device which does not form an integral part of a lifting appliance and every other item of loose gear weighing more than 100 kg should be clearly marked with its own weight.

20. Disposable pallets and similar disposable devices should—
- (a) be clearly marked or labelled to indicate that they are disposable;
 - (b) not be used unless they are free from defects liable to affect their safe use; and
 - (c) not be re-used.

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

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

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

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

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

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

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

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

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

Convention concerning Hours of Work and Rest Periods in Road Transport ¹

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-fifth Session on 6 June 1979, and

Having decided upon the adoption of certain proposals with regard to hours of work and rest periods in road transport, which is the fifth item on the agenda of the session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-nine, the following Convention, which may be cited as the Hours of Work and Rest Periods (Road Transport) Convention, 1979:

Article 1

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

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

Article 2

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

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

¹ Date of coming into force: 10 February 1983.

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

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

Article 3

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

Article 4

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

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

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

Article 5

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

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

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

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

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

Article 6

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

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

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

Article 7

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

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

Article 8

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

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

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

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

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

Article 9

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

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

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

Article 10

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

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

2. Each employer shall—

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

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

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

Article 11

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

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

Article 12

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

Article 13

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

* * *

Articles 14-21: Standard final provisions.²

Convention concerning the Promotion of Collective Bargaining¹

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

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

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

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

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

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, which is the fourth item on the agenda of the session, and

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

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

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all branches of economic activity.
2. The extent to which the guarantees provided for in this Convention apply to the armed forces and the police may be determined by national laws or regulations or national practice.
3. As regards the public service, special modalities of application of this Convention may be fixed by national laws or regulations or national practice.

Article 2

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

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

Article 3

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

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

PART II. METHODS OF APPLICATION

Article 4

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

PART III. PROMOTION OF COLLECTIVE BARGAINING

Article 5

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

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

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

Article 6

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

Article 7

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

Article 8

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

PART IV. FINAL PROVISIONS

Article 9

This Convention does not revise any existing Convention or Recommendation.

* * *

Articles 10-17: Standard final provisions.²

Recommendation concerning the Promotion of Collective Bargaining

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

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Collective Bargaining Convention, 1981, adopts this nineteenth day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Collective Bargaining Recommendation, 1981:

I. METHODS OF APPLICATION

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

II. MEANS OF PROMOTING COLLECTIVE BARGAINING

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

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

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

4. (1) Measures adapted to national conditions should be taken, if necessary, so that collective bargaining is possible at any level whatsoever, including

that of the establishment, the undertaking, the branch of activity, the industry, or the regional or national levels.

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

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

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

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

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

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

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

(2) For this purpose —

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

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

Recommendation 164

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

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

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

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

I. SCOPE AND DEFINITIONS

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

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

2. For the purpose of this Recommendation—

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

II. TECHNICAL FIELDS OF ACTION

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

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

III. ACTION AT THE NATIONAL LEVEL

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

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

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

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

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

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

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

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

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

IV. ACTION AT THE LEVEL OF THE UNDERTAKING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. RELATIONS TO EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

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

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

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

APPENDIX

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

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

Convention 160

CONVENTION CONCERNING LABOUR STATISTICS

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

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

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

I. GENERAL PROVISIONS

Article 1

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

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

Article 2

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

Article 3

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

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

Article 4

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

Article 5

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

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

Article 6

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

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

II. BASIC LABOUR STATISTICS

Article 7

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

Article 8

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

Article 9

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

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

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

Article 10

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

Article 11

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

Article 12

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

Article 13

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

Article 14

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

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

Article 15

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

III. ACCEPTANCE OF OBLIGATIONS

Article 16

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

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

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

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

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

Article 17

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

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

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

Article 18

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

IV. FINAL PROVISIONS

Article 19

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

Article 20

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

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

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

Article 21

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

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

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

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

Article 22

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

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

Article 23

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

Article 24

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

Article 25

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

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

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

Article 26

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

Recommendation 170

RECOMMENDATION CONCERNING LABOUR STATISTICS

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

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

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

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

I. BASIC LABOUR STATISTICS

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

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

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

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

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

Statistics of Wages and Hours of Work

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

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

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

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

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

(2) These statistics should provide –

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

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

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

Consumer Price Indices

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

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

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

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

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

Statistics of Household Expenditure and Household Income

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

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

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

Statistics of Occupational Injuries and Occupational Diseases

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

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

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

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

Statistics of Industrial Disputes

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

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

Statistics of Productivity

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

II. STATISTICAL INFRASTRUCTURE

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

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

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

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

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

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

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

Convention 161

CONVENTION CONCERNING OCCUPATIONAL HEALTH SERVICES

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

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

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

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

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

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

PART I. PRINCIPLES OF NATIONAL POLICY

Article 1

For the purpose of this Convention—

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

Article 2

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

Article 3

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

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

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

Article 4

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

PART II. FUNCTIONS

Article 5

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

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

PART III. ORGANISATION

Article 6

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

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

Article 7

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

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

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

Article 8

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

PART IV. CONDITIONS OF OPERATION

Article 9

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

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

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

Article 10

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

Article 11

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

Article 12

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

Article 13

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

Article 14

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

Article 15

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

PART V. GENERAL PROVISIONS

Article 16

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

Article 17

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

Article 18

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

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

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

Article 19

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

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

Article 20

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

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

Article 21

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

Article 22

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

Article 23

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

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 19 above, if and when the new revising Convention shall have come into force;

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

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 24

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

Recommendation 171

RECOMMENDATION CONCERNING OCCUPATIONAL HEALTH SERVICES

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

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

Noting the relevant international labour Conventions and Recommendations, and in particular the Protection of Workers' Health Recommendation, 1953, the Occupational Health Services Recommendation, 1959, the Workers' Representatives Convention, 1971, and the Occupational Safety and Health Convention and Recommendation, 1981, which establish the principles of national policy and action at the national level, and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the International Labour Office,

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

Having determined that proposals shall take the form of a Recommendation supplementing the Occupational Health Services Convention, 1985:

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

I. PRINCIPLES OF NATIONAL POLICY

1. Each Member should, in the light of national conditions and practice and in consultation with the most representative organisations of employers and workers, where they exist, formulate, implement and periodically review a coherent national policy on occupational health services, which should include general principles governing their functions, organisation and operation.

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

(2) Provision should also be made for such measures as may be necessary and reasonably practicable to make available to self-employed persons protection analogous to that provided for in the Occupational Health Services Convention, 1985, and in this Recommendation.

II. FUNCTIONS

3. The role of occupational health services should be essentially preventive.

4. Occupational health services should establish a programme of activity adapted to the undertaking or undertakings they serve, taking into account in particular the occupational hazards in the working environment as well as the problems specific to the branches of economic activity concerned.

A. SURVEILLANCE OF THE WORKING ENVIRONMENT

5. (1) The surveillance of the working environment should include—

- (a) identification and evaluation of the environmental factors which may affect the workers' health;
- (b) assessment of conditions of occupational hygiene and factors in the organisation of work which may give rise to risks for the health of workers;
- (c) assessment of collective and personal protective equipment;
- (d) assessment where appropriate of exposure of workers to hazardous agents by valid and generally accepted monitoring methods;
- (e) assessment of control systems designed to eliminate or reduce exposure.

(2) Such surveillance should be carried out in liaison with the other technical services of the undertaking and in co-operation with the workers concerned and their representatives in the undertaking or the safety and health committee, where they exist.

6. (1) In accordance with national law and practice, data resulting from the surveillance of the working environment should be recorded in an appropriate manner and be available to the employer, the workers and their representatives in the undertaking concerned or the safety and health committee, where they exist.

(2) These data should be used on a confidential basis and solely to provide guidance and advice on measures to improve the working environment and the health and safety of workers.

(3) The competent authority should have access to these data. They may only be communicated by the occupational health service to others with the agreement of the employer and the workers or their representatives in the undertaking or the safety and health committee, where they exist.

7. The surveillance of the working environment should entail such visits by the personnel providing occupational health services as may be necessary to examine the factors in the working environment which may affect the workers' health, the environmental health conditions at the workplace and the working conditions.

8. Occupational health services should—

- (a) carry out monitoring of workers' exposure to special health hazards, when necessary;
- (b) supervise sanitary installations and other facilities for the workers, such as drinking water, canteens and living accommodation, when provided by the employer;
- (c) advise on the possible impact on the workers' health of the use of technologies;

- (d) participate in and advise on the selection of the equipment necessary for the personal protection of the workers against occupational hazards;
- (e) collaborate in job analysis and in the study of organisation and methods of work with a view to securing a better adaptation of work to the workers;
- (f) participate in the analysis of occupational accidents and occupational diseases and in accident prevention programmes.

9. Personnel providing occupational health services should, after informing the employer, workers and their representatives, where appropriate—

- (a) have free access to all workplaces and to the installations the undertaking provides for the workers;
- (b) have access to information concerning the processes, performance standards, products, materials and substances used or whose use is envisaged, subject to their preserving the confidentiality of any secret information they may learn which does not affect the health of workers;
- (c) be able to take for the purpose of analysis samples of products, materials and substances used or handled.

10. Occupational health services should be consulted concerning proposed modifications in the work processes or in the conditions of work liable to have an effect on the health or safety of workers.

B. SURVEILLANCE OF THE WORKERS' HEALTH

11. (1) Surveillance of the workers' health should include, in the cases and under the conditions specified by the competent authority, all assessments necessary to protect the health of the workers, which may include—

- (a) health assessment of workers before their assignment to specific tasks which may involve a danger to their health or that of others;
- (b) health assessment at periodic intervals during employment which involves exposure to a particular hazard to health;
- (c) health assessment on resumption of work after a prolonged absence for health reasons for the purpose of determining its possible occupational causes, of recommending appropriate action to protect the workers and of determining the worker's suitability for the job and needs for reassignment and rehabilitation;
- (d) health assessment on and after the termination of assignments involving hazards which might cause or contribute to future health impairment.

(2) Provisions should be adopted to protect the privacy of the workers and to ensure that health surveillance is not used for discriminatory purposes or in any other manner prejudicial to their interests.

12. (1) In the case of exposure of workers to specific occupational hazards, in addition to the health assessments provided for in Paragraph 11 of this Recommendation, the surveillance of the workers' health should include, where appropriate, any examinations and investigations which may be necessary to detect exposure levels and early biological effects and responses.

(2) When a valid and generally accepted method of biological monitoring of the workers' health for the early detection of the effects on health of exposure to specific occupational hazards exists, it may be used to identify workers who need a detailed medical examination, subject to the individual worker's consent.

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

14. (1) Occupational health services should record data on workers' health in personal confidential health files. These files should also contain information on jobs held by the workers, on exposure to occupational hazards involved in their work, and on the results of any assessments of workers' exposure to these hazards.

(2) The personnel providing occupational health services should have access to personal health files only to the extent that the information contained in the files is relevant to the performance of their duties. Where the files contain personal information covered by medical confidentiality this access should be restricted to medical personnel.

(3) Personal data relating to health assessments may be communicated to others only with the informed consent of the worker concerned.

15. The conditions under which, and time during which, personal health files should be kept, the conditions under which they may be communicated or transferred and the measures necessary to keep them confidential, in particular when the information they contain is placed on computer, should be prescribed by national laws or regulations or by the competent authority or, in accordance with national practice, governed by recognised ethical guide-lines.

16. (1) On completing a prescribed medical examination for the purpose of determining fitness for work involving exposure to a particular hazard, the physician who has carried out the examination should communicate his conclusions in writing to both the worker and the employer.

(2) These conclusions should contain no information of a medical nature; they might, as appropriate, indicate fitness for the proposed assignment or specify the kinds of jobs and the conditions of work which are medically contra-indicated, either temporarily or permanently.

17. Where the continued employment of a worker in a particular job is contra-indicated for health reasons, the occupational health service should collaborate in efforts to find alternative employment for him in the undertaking, or another appropriate solution.

18. Where an occupational disease has been detected through the surveillance of the worker's health, it should be notified to the competent authority in accordance with national law and practice. The employer, workers and workers' representatives should be informed that this notification has been carried out.

C. INFORMATION, EDUCATION, TRAINING, ADVICE

19. Occupational health services should participate in designing and implementing programmes of information, education and training on health and hygiene in relation to work for the personnel of the undertaking.

20. Occupational health services should participate in the training and regular retraining of first-aid personnel and in the progressive and continuing training of all workers in the undertaking who contribute to occupational safety and health.

21. With a view to promoting the adaptation of work to the workers and improving the working conditions and environment, occupational health services should act as advisers on occupational health and hygiene and ergonomics to the employer, the workers and their representatives in the undertaking and the safety and health committee, where they exist, and should collaborate with bodies already operating as advisers in this field.

22. (1) Each worker should be informed in an adequate and appropriate manner of the health hazards involved in his work, of the results of the health examinations he has undergone and of the assessment of his health.

(2) Each worker should have the right to have corrected any data which are erroneous or which might lead to error.

(3) In addition, occupational health services should provide workers with personal advice concerning their health in relation to their work.

D. FIRST AID, TREATMENT AND HEALTH PROGRAMMES

23. Taking into account national law and practice, occupational health services in undertakings should provide first-aid and emergency treatment in cases of accident or indisposition of workers at the workplace and should collaborate in the organisation of first aid.

24. Taking into account the organisation of preventive medicine at the national level, occupational health services might, where possible and appropriate—

(a) carry out immunisations in respect of biological hazards in the working environment;

(b) take part in campaigns for the protection of health;

(c) collaborate with the health authorities within the framework of public health programmes.

25. Taking into account national law and practice and after consultation with the most representative organisations of employers and workers, where they exist, the competent authority should, where necessary, authorise occupational health services, in agreement with all concerned, including the worker and his own doctor or a primary health care service, where applicable, to undertake or to participate in one or more of the following functions:

(a) treatment of workers who have not stopped work or who have resumed work after an absence;

(b) treatment of the victims of occupational accidents;

(c) treatment of occupational diseases and of health impairment aggravated by work;

(d) medical aspects of vocational re-education and rehabilitation.

26. Taking into account national law and practice concerning the organisation of health care, and distance from clinics, occupational health services might engage in other health activities, including curative medical care for workers and their families, as authorised by the competent authority in consultation with the most representative organisations of employers and workers, where they exist.

27. Occupational health services should co-operate with the other services concerned in the establishment of emergency plans for action in the case of major accidents.

E. OTHER FUNCTIONS

28. Occupational health services should analyse the results of the surveillance of the workers' health and of the working environment, as well as the results of biological monitoring and of personal monitoring of workers' exposure to occupational hazards, where they exist, with a view to assessing possible connections between exposure to occupational hazards and health impairment and to proposing measures for improving the working conditions and environment.

29. Occupational health services should draw up plans and reports at appropriate intervals concerning their activities and health conditions in the undertaking. These plans and reports should be made available to the employer and the workers' representatives in the undertaking or the safety and health committee, where they exist, and be available to the competent authority.

30. (1) Occupational health services, in consultation with the employers' and the workers' representatives, should contribute to research, within the limits of their resources, by participating in studies or inquiries in the undertaking or in the relevant branch of economic activity, for example, with a view to collecting data for epidemiological purposes and orienting their activities.

(2) The results of the measurements carried out in the working environment and of the assessments of the workers' health may be used for research purposes, subject to the provisions of Paragraphs 6(3), 11(2) and 14(3) of this Recommendation.

31. Occupational health services should participate with other services in the undertaking, as appropriate, in measures to prevent its activities from having an adverse effect on the general environment.

III. ORGANISATION

32. Occupational health services should, as far as possible, be located within or near the place of employment, or should be organised in such a way as to ensure that their functions are carried out at the place of employment.

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

(2) In conformity with national conditions and practice, employers and workers or their representatives in the undertaking or the safety and health committee, where they exist, should participate in decisions affecting the organisation and operation of these services, including those relating to the employment of personnel and the planning of the service's programmes.

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

(2) In accordance with national conditions and practice, occupational health services may be organised by -

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

(3) The competent authority should determine the circumstances in which, in the absence of an occupational health service, appropriate existing services may, as an interim measure, be recognised as authorised bodies in accordance with subparagraph 2(d) of this Paragraph.

35. In situations where the competent authority, after consulting the representative organisations of employers and workers concerned, where they exist, has determined that the establishment of an occupational health service, or access to such a service, is impracticable, undertakings should, as an interim measure, make arrangements, after consulting the workers' representatives in the undertaking or the safety and health committee, where they exist, with a local medical service for carrying out the health examinations prescribed by national laws or regulations, providing surveillance of the environmental health conditions in the undertaking and ensuring that first-aid and emergency treatment are properly organised.

IV. CONDITIONS OF OPERATION

36. (1) In accordance with national law and practice, occupational health services should be made up of multidisciplinary teams whose composition should be determined by the nature of the duties to be performed.

(2) Occupational health services should have sufficient technical personnel with specialised training and experience in such fields as occupational medicine, occupational hygiene, ergonomics, occupational health nursing and other relevant fields. They should, as far as possible, keep themselves up to date with progress in the scientific and technical knowledge necessary to perform their duties and should be given the opportunity to do so without loss of earnings.

(3) The occupational health services should, in addition, have the necessary administrative personnel for their operation.

37. (1) The professional independence of the personnel providing occupational health services should be safeguarded. In accordance with national law and practice, this might be done through laws or regulations and appropriate consultations between the employer, the workers, and their representatives and the safety and health committees, where they exist.

(2) The competent authority should, where appropriate and in accordance with national law and practice, specify the conditions for the engagement and termination of employment of the personnel of occupational health services in consultation with the representative organisations of employers and workers concerned.

38. Each person who works in an occupational health service should be required to observe professional secrecy as regards both medical and technical information which may come to his knowledge in connection with his functions and the activities of the service, subject to such exceptions as may be provided for by national laws or regulations.

39. (1) The competent authority may prescribe standards for the premises and equipment necessary for occupational health services to exercise their functions.

(2) Occupational health services should have access to appropriate facilities for carrying out the analyses and tests necessary for surveillance of the workers' health and of the working environment.

40. (1) Within the framework of a multidisciplinary approach, occupational health services should collaborate with—

- (a) those services which are concerned with the safety of workers in the undertaking;
- (b) the various production units, or departments, in order to help them in formulating and implementing relevant preventive programmes;
- (c) the personnel department and other departments concerned;
- (d) the workers' representatives in the undertaking, workers' safety representatives and the safety and health committee, where they exist.

(2) Occupational health services and occupational safety services might be organised together, where appropriate.

41. Occupational health services should also, where necessary, have contacts with external services and bodies dealing with questions of health, hygiene, safety, vocational rehabilitation, retraining and reassignment, working conditions and the welfare of workers, as well as with inspection services and with the national body which has been designated to take part in the International Occupational Safety and Health Hazard Alert System set up within the framework of the International Labour Organisation.

42. The person in charge of an occupational health service should be able, in accordance with the provisions of Paragraph 38, to consult the competent authority, after informing the employer and the workers' representatives in the undertaking or the safety and health committee, where they exist, on the implementation of occupational safety and health standards in the undertaking.

43. The occupational health services of a national or multinational enterprise with more than one establishment should provide the highest standard of services, without discrimination, to the workers in all its establishments, regardless of the place or country in which they are situated.

V. GENERAL PROVISIONS

44. (1) Within the framework of their responsibility for their employees' health and safety, employers should take all necessary measures to facilitate the execution of the duties of occupational health services.

(2) Workers and their organisations should provide support to the occupational health services in the execution of their duties.

45. The occupational health-related facilities provided by the occupational health services should not involve any expense to the worker.

46. In cases where occupational health services are established and their functions specified by national laws or regulations, the manner of financing these services should also be so determined.

47. For the purpose of this Recommendation the term "workers' representatives in the undertaking" means persons who are recognised as such under national law or practice.

48. This Recommendation, which supplements the Occupational Health Services Convention, 1985, supersedes the Occupational Health Services Recommendation, 1959.

Convention 162

CONVENTION CONCERNING SAFETY IN THE USE OF ASBESTOS

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-second Session on 4 June 1986, and

Noting the relevant international labour Conventions and Recommendations, and in particular the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Safety and Health Services Convention and Recommendation, 1985, the list of occupational diseases as revised in 1980 appended to the Employment Injury Benefits Convention, 1964, as well as the *Code of practice on safety in the use of asbestos*, published by the International Labour Office in 1984, which establish the principles of national policy and action at the national level,

Having decided upon the adoption of certain proposals with regard to safety in the use of asbestos, 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-fourth day of June of the year one thousand nine hundred and eighty-six the following Convention, which may be cited as the Asbestos Convention, 1986:

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all activities involving exposure of workers to asbestos in the course of work.

2. A Member ratifying this Convention may, after consultation with the most representative organisations of employers and workers concerned, and on the basis of an assessment of the health hazards involved and the safety measures applied, exclude particular branches of economic activity or particular undertakings from the application of certain provisions of the Convention when it is satisfied that their application to these branches or undertakings is unnecessary.

3. The competent authority, when deciding on the exclusion of particular branches of economic activity or particular undertakings, shall take into account the frequency, duration and level of exposure, as well as the type of work and the conditions at the workplace.

Article 2

For the purpose of this Convention—

- (a) the term "asbestos" means the fibrous form of mineral silicates belonging to rock-forming minerals of the serpentine group, i.e. chrysotile (white asbestos),

and of the amphibole group, i.e. actinolite, amosite (brown asbestos-cummingtonite-grunerite), anthophyllite, crocidolite (blue asbestos), tremolite, or any mixture containing one or more of these;

- (b) the term "asbestos dust" means airborne particles of asbestos or settled particles of asbestos which are liable to become airborne in the working environment;
- (c) the term "airborne asbestos dust" means, for purposes of measurement, dust particles measured by gravimetric assessment or other equivalent method;
- (d) the term "respirable asbestos fibres" means asbestos fibres having a diameter of less than 3 µm and a length-to-diameter ratio greater than 3:1. Only fibres of a length greater than 5 µm shall be taken into account for purposes of measurement;
- (e) the term "exposure to asbestos" means exposure at work to airborne respirable asbestos fibres or asbestos dust, whether originating from asbestos or from minerals, materials or products containing asbestos;
- (f) the term "workers" includes the members of production co-operatives;
- (g) the term "workers' representatives" means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

PART II. GENERAL PRINCIPLES

Article 3

1. National laws or regulations shall prescribe the measures to be taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos.

2. National laws and regulations drawn up in pursuance of paragraph 1 of this Article shall be periodically reviewed in the light of technical progress and advances in scientific knowledge.

3. The competent authority may permit temporary derogations from the measures prescribed pursuant to paragraph 1 of this Article, under conditions and within limits of time to be determined after consultation with the most representative organisations of employers and workers concerned.

4. In granting derogations in pursuance of paragraph 3 of this Article, the competent authority shall ensure that the necessary precautions are taken to protect the workers' health.

Article 4

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

Article 5

1. The enforcement of the laws and regulations adopted pursuant to Article 3 of this Convention shall be secured by an adequate and appropriate system of inspection.

2. National laws or regulations shall provide for the necessary measures, including appropriate penalties, to ensure effective enforcement of and compliance with the provisions of this Convention.

Article 6

1. Employers shall be made responsible for compliance with the prescribed measures.

2. Whenever two or more employers undertake activities simultaneously at one workplace, they shall co-operate in order to comply with the prescribed measures, without prejudice to the responsibility of each employer for the health and safety of the workers he employs. The competent authority shall prescribe the general procedures of this co-operation when it is necessary.

3. Employers shall, in co-operation with the occupational safety and health services, and after consultation with the workers' representatives concerned, prepare procedures for dealing with emergency situations.

Article 7

Workers shall be required, within the limits of their responsibility, to comply with prescribed safety and hygiene procedures relating to the prevention and control of, and protection against, health hazards due to occupational exposure to asbestos.

Article 8

Employers and workers or their representatives shall co-operate as closely as possible at all levels in the undertaking in the application of the measures prescribed pursuant to this Convention.

PART III. PROTECTIVE AND PREVENTIVE MEASURES

Article 9

The national laws or regulations adopted pursuant to Article 3 of this Convention shall provide that exposure to asbestos shall be prevented or controlled by one or more of the following measures:

- (a) making work in which exposure to asbestos may occur subject to regulations prescribing adequate engineering controls and work practices, including workplace hygiene;
- (b) prescribing special rules and procedures, including authorisation, for the use of asbestos or of certain types of asbestos or products containing asbestos or for certain work processes.

Article 10

Where necessary to protect the health of workers and technically practicable, national laws or regulations shall provide for one or more of the following measures—

- (a) replacement of asbestos or of certain types of asbestos or products containing asbestos by other materials or products or the use of alternative technology, scientifically evaluated by the competent authority as harmless or less harmful, whenever this is possible;
- (b) total or partial prohibition of the use of asbestos or of certain types of asbestos or products containing asbestos in certain work processes.

Article 11

1. The use of crocidolite and products containing this fibre shall be prohibited.
2. The competent authority shall be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in paragraph 1 of this Article when replacement is not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

Article 12

1. Spraying of all forms of asbestos shall be prohibited.
2. The competent authority shall be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in paragraph 1 of this Article when alternative methods are not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

Article 13

National laws and regulations shall provide that employers shall notify to the competent authority, in a manner and to the extent prescribed by it, certain types of work involving exposure to asbestos.

Article 14

Producers and suppliers of asbestos and manufacturers and suppliers of products containing asbestos shall be made responsible for adequate labelling of the container and, where appropriate, the product, in a language and manner easily understood by the workers and the users concerned, as prescribed by the competent authority.

Article 15

1. The competent authority shall prescribe limits for the exposure of workers to asbestos or other exposure criteria for the evaluation of the working environment.
2. The exposure limits or other exposure criteria shall be fixed and periodically reviewed and updated in the light of technological progress and advances in technological and scientific knowledge.
3. In all workplaces where workers are exposed to asbestos, the employer shall take all appropriate measures to prevent or control the release of asbestos dust into the air, to ensure that the exposure limits or other exposure criteria are complied with and also to reduce exposure to as low a level as is reasonably practicable.

4. When the measures taken in pursuance of paragraph 3 of this Article do not bring exposure to asbestos within the exposure limits or do not comply with the other exposure criteria specified in pursuance of paragraph 1 of this Article, the employer shall provide, maintain and replace, as necessary, at no cost to the workers, adequate respiratory protective equipment and special protective clothing as appropriate. Respiratory protective equipment shall comply with standards set by the competent authority, and be used only as a supplementary, temporary, emergency or exceptional measure and not as an alternative to technical control.

Article 16

Each employer shall be made responsible for the establishment and implementation of practical measures for the prevention and control of the exposure of the workers he employs to asbestos and for their protection against the hazards due to asbestos.

Article 17

1. Demolition of plants or structures containing friable asbestos insulation materials, and removal of asbestos from buildings or structures in which asbestos is liable to become airborne, shall be undertaken only by employers or contractors who are recognised by the competent authority as qualified to carry out such work in accordance with the provisions of this Convention and who have been empowered to undertake such work.

2. The employer or contractor shall be required before starting demolition work to draw up a work plan specifying the measures to be taken, including measures to—

- (a) provide all necessary protection to the workers;
- (b) limit the release of asbestos dust into the air; and
- (c) provide for the disposal of waste containing asbestos in accordance with Article 19 of this Convention.

3. The workers or their representatives shall be consulted on the work plan referred to in paragraph 2 of this Article.

Article 18

1. Where workers' personal clothing may become contaminated with asbestos dust, the employer, in accordance with national laws or regulations and in consultation with the workers' representatives, shall provide appropriate work clothing, which shall not be worn outside the workplace.

2. The handling and cleaning of used work clothing and special protective clothing shall be carried out under controlled conditions, as required by the competent authority, to prevent the release of asbestos dust.

3. National laws or regulations shall prohibit the taking home of work clothing and special protective clothing and of personal protective equipment.

4. The employer shall be responsible for the cleaning, maintenance and storage of work clothing, special protective clothing and personal protective equipment.

5. The employer shall provide facilities for workers exposed to asbestos to wash, take a bath or shower at the workplace, as appropriate.

Article 19

1. In accordance with national law and practice, employers shall dispose of waste containing asbestos in a manner that does not pose a health risk to the workers concerned, including those handling asbestos waste, or to the population in the vicinity of the enterprise.

2. Appropriate measures shall be taken by the competent authority and by employers to prevent pollution of the general environment by asbestos dust released from the workplace.

PART IV. SURVEILLANCE OF THE WORKING ENVIRONMENT AND WORKERS' HEALTH

Article 20

1. Where it is necessary for the protection of the health of workers, the employer shall measure the concentrations of airborne asbestos dust in workplaces, and shall monitor the exposure of workers to asbestos at intervals and using methods specified by the competent authority.

2. The records of the monitoring of the working environment and of the exposure of workers to asbestos shall be kept for a period prescribed by the competent authority.

3. The workers concerned, their representatives and the inspection services shall have access to these records.

4. The workers or their representatives shall have the right to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring.

Article 21

1. Workers who are or have been exposed to asbestos shall be provided, in accordance with national law and practice, with such medical examinations as are necessary to supervise their health in relation to the occupational hazard, and to diagnose occupational diseases caused by exposure to asbestos.

2. The monitoring of workers' health in connection with the use of asbestos shall not result in any loss of earnings for them. It shall be free of charge and, as far as possible, shall take place during working hours.

3. Workers shall be informed in an adequate and appropriate manner of the results of their medical examinations and receive individual advice concerning their health in relation to their work.

4. When continued assignment to work involving exposure to asbestos is found to be medically inadvisable, every effort shall be made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income.

5. The competent authority shall develop a system of notification of occupational diseases caused by asbestos.

PART V. INFORMATION AND EDUCATION

Article 22

1. The competent authority shall make appropriate arrangements, in consultation and collaboration with the most representative organisations of employers and workers concerned, to promote the dissemination of information and the education of all concerned with regard to health hazards due to exposure to asbestos and to methods of prevention and control.

2. The competent authority shall ensure that employers have established written policies and procedures on measures for the education and periodic training of workers on asbestos hazards and methods of prevention and control.

3. The employer shall ensure that all workers exposed or likely to be exposed to asbestos are informed about the health hazards related to their work, instructed in preventive measures and correct work practices and receive continuing training in these fields.

PART VI. FINAL PROVISIONS

Article 23

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

Article 24

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 25

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 26

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 27

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 28

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 29

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 revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 25 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 30

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

Recommendation 172

RECOMMENDATION CONCERNING SAFETY IN THE USE OF ASBESTOS

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-second Session on 4 June 1986, and

Noting the relevant international labour Conventions and Recommendations, and in particular the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, the list of occupational diseases as revised in 1980 appended to the Employment Injury Benefits Convention, 1964, as well as the *Code of practice on safety in the use of asbestos*, published by the International Labour Office in 1984, which establish the principles of national policy and action at the national level, and

Having decided upon the adoption of certain proposals with regard to safety in the use of asbestos, 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 Asbestos Convention, 1986,

adopts this twenty-fourth day of June of the year one thousand nine hundred and eighty-six the following Recommendation, which may be cited as the Asbestos Recommendation, 1986;

I. SCOPE AND DEFINITIONS

1. (1) The provisions of the Asbestos Convention, 1986, and of this Recommendation should be applied to all activities involving a risk of exposure of workers to asbestos in the course of work.

(2) Measures should be taken, in accordance with national law and practice, to afford to self-employed persons protection analogous to that provided for in the Asbestos Convention, 1986, and in this Recommendation.

(3) Employment of young persons of less than 18 years of age in activities involving a risk of occupational exposure to asbestos should receive special attention, as required by the competent authority.

2. Activities involving a risk of occupational exposure to asbestos should include in particular —

- (a) mining and milling of minerals containing asbestos;
- (b) manufacture of materials or products containing asbestos;
- (c) use or application of products containing asbestos;
- (d) stripping, repair or maintenance of products containing asbestos;

- (e) demolition or repair of plant or structure containing asbestos;
 - (f) transportation, storage and handling of asbestos or materials containing asbestos;
 - (g) other activities involving a risk of exposure to airborne asbestos dust.
3. For the purpose of this Recommendation –
- (a) the term “asbestos” means the fibrous form of mineral silicate belonging to rock-forming minerals of the serpentine group, i.e. chrysotile (white asbestos), and of the amphibole group, i.e. actinolite amosite (brown asbestos, cummingtonite-grunerite), anthophyllite, crocidolite (blue asbestos), tremolite, or any mixture containing one or more of these;
 - (b) the term “asbestos dust” means airborne particles of asbestos or settled particles of asbestos which are liable to become airborne in the working environment;
 - (c) the term “airborne asbestos dust” means, for purposes of measurement, dust particles measured by gravimetric assessment or other equivalent method;
 - (d) the term “respirable asbestos fibres” means asbestos fibres having a diameter of less than 3 µm, and a length-to-diameter ratio greater than 3:1. Only fibres of a length greater than 5 µm should be taken into account for the purpose of measurement;
 - (e) the term “exposure to asbestos” means exposure at work to airborne respirable asbestos fibres or asbestos dust, whether originating from asbestos or from minerals, materials or products containing asbestos;
 - (f) the term “workers” includes the members of production co-operatives.
 - (g) the term “workers’ representatives” means the workers’ representatives recognised as such by national law or practice, in conformity with the Workers’ Representatives Convention, 1971.

II. GENERAL PRINCIPLES

4. The measures prescribed pursuant to Article 3 of the Asbestos Convention, 1986, should be so framed as to cover the diversity of risks of occupational exposure to asbestos in all branches of economic activity, and should be drawn up with due regard to Articles 1 and 2 of the Occupational Cancer Convention, 1974.

5. The competent authority should periodically review the measures prescribed, taking into account the *Code of practice on safety in the use of asbestos* published by the International Labour Office and other codes of practice or guides which may be established by the International Labour Office and the conclusions of meetings of experts which may be convened by it, as well as information from other competent bodies on asbestos and substitute materials.

6. The competent authority, in the application of the provisions of this Recommendation, should act after consultation with the most representative organisations of employers and workers.

7. (1) The employer should use all appropriate measures, in consultation and co-operation with the workers concerned or their representatives and in the light of advice from competent sources, including occupational health services, to prevent or control exposure to asbestos.

(2) In accordance with national law and practice, consultation and co-operation between an employer and the workers he employs might be carried out through–

- (a) workers’ safety delegates;
- (b) workers’ safety and health committees or joint safety and health committees;
- (c) other workers’ representatives.

8. Workers engaged in work with asbestos or products containing asbestos should be required within the limits of their responsibility to comply with the prescribed safety and hygiene procedures, including the use of adequate protective equipment.

9. (1) A worker who has removed himself from a work situation which he has reasonable justification to believe presents serious danger to his life or health should–

- (a) alert his immediate supervisor;
- (b) be protected from retaliatory or disciplinary measures, in accordance with national conditions and practice.

(2) No measure prejudicial to a worker should be taken by reference to the fact that, in good faith, he complained of what he considered to be a breach of statutory requirements or a serious inadequacy in the measures taken by the employer in respect of occupational safety and health and the working environment.

III. PROTECTIVE AND PREVENTIVE MEASURES

10. (1) The competent authority should ensure that exposure to asbestos is prevented or controlled by prescribing engineering controls and work practices, including workplace hygiene, which afford maximum protection to workers.

(2) The competent authority should periodically determine, on the basis of the level of exposure and the circumstances and conditions prevailing in the working environment, and in the light of scientific research and technological progress–

- (a) the types of asbestos and products containing asbestos whose use should be subject to authorisation and the work processes which should be subject to authorisation;
- (b) the types of asbestos and products containing asbestos whose use should be totally or partially prohibited and the work processes in which the use of asbestos or certain types of asbestos or products containing asbestos should be prohibited.

(3) The prohibition or authorisation of the use of certain types of asbestos or products containing asbestos and their replacement by other substances should be based on scientific assessment of their danger to health.

11. (1) The competent authority should encourage research into technical and health problems relating to exposure to asbestos, substitute materials and alternative technologies.

(2) The competent authority should encourage research into and development of products containing asbestos, other substitute materials or alternative technologies which are harmless or less harmful, with a view to eliminating or decreasing the risk for the workers.

12. (1) The competent authority, wherever necessary for the protection of the workers, should require the replacement of asbestos by substitute materials, wherever possible.

(2) Before being accepted for use in any process, all potential substitute materials should be thoroughly evaluated for their possible harmful effects on health. The health of workers exposed to such materials should be continuously supervised, if judged necessary.

13. (1) With a view to the effective enforcement of the national laws and regulations, the competent authority should prescribe the information to be supplied in the notifications of work with asbestos provided for in Article 13 of the Asbestos Convention, 1986.

(2) This information should include in particular the following:

- (a) the type and quantity of asbestos used;
- (b) the activities and processes carried out;
- (c) the products manufactured;
- (d) the number of workers exposed and the level and frequency of their exposure;
- (e) the preventive and protective measures taken to comply with the national laws and regulations;
- (f) any other information necessary to safeguard the workers' health.

14. (1) Demolition of those parts of plants or structures which contain friable asbestos insulation materials, and removal of asbestos from buildings or structures in which asbestos is liable to become airborne, should be subject to authorisation, which should be granted only to employers or contractors who are recognised by the competent authority as qualified to carry out such work in accordance with the provisions of this Recommendation.

(2) The employer or contractor should be required before starting demolition or removal work to draw up a work plan specifying the measures to be taken before the commencement of work, including measures to—

- (a) provide all necessary protection to the workers;
- (b) limit the release of asbestos dust into the air;
- (c) inform workers who may be affected of the possible release of asbestos dust into the air, of the general procedures and equipment to be used, and of the precautions to be taken; and
- (d) provide for the disposal of waste containing asbestos in accordance with Paragraph 28 of this Recommendation.

(3) The workers or their representatives should be consulted concerning the work plan referred to in subparagraph (2) above.

15. (1) Each employer should establish and implement, with the participation of the workers he employs, a programme for the prevention and control of the workers' exposure to asbestos. This programme should be reviewed at regular intervals and in the light of changes in the work processes and machinery used or in the techniques and methods of prevention and control.

(2) The competent authority should, in accordance with national practice, undertake activities to assist in particular small undertakings, where technical knowledge or means may be lacking, with the establishment of preventive programmes in cases in which exposure to asbestos may occur.

16. Technical protective appliances and appropriate work practices should be adopted to prevent the release of asbestos dust into the air of workplaces. Even where exposure limits or other exposure criteria are complied with, such measures should be taken so as to reduce the exposure to as low a level as is reasonably practicable.

17. The measures to be taken to prevent or control the exposure, and to avoid exposure, of workers to asbestos should include in particular the following—

- (a) asbestos should be used only when its risks can be prevented or controlled; otherwise, it should be replaced, when technically feasible, by other materials or the use of alternative technologies, scientifically evaluated as harmless or less harmful;
- (b) the number of persons assigned to work involving exposure to asbestos and the duration of their exposure should be kept to the minimum required for the safe performance of the task;
- (c) machinery, equipment and work processes should be used which eliminate or minimise the formation of asbestos dust, and particularly its release into the working and general environment;
- (d) workplaces where the use of asbestos may result in the release of asbestos dust into the air should be separated from the general working environment in order to avoid possible exposure of other workers to asbestos;
- (e) the areas of activity which involve exposure to asbestos should be clearly demarcated and indicated by warning signs restricting unauthorised access;
- (f) the location of asbestos used in the construction of premises should be recorded.

18. (1) The use of crocidolite and products containing this fibre should be prohibited.

(2) The competent authority should be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in subparagraph (1) above when replacement is not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

19. (1) Spraying of all forms of asbestos should be prohibited.

(2) The installation of friable asbestos insulation materials should be prohibited.

(3) The competent authority should be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in subparagraphs (1) and (2) above when alternative methods are not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

20. (1) Producers and suppliers of asbestos and manufacturers and suppliers of products containing asbestos should be made responsible for the appropriate and adequate labelling of the container or product.

(2) National laws or regulations should require that the label be printed in the language or languages in common use in the country concerned and indicate that the container or product contains asbestos, that the inhalation of asbestos dust carries a health risk, and that appropriate protective measures should be taken.

(3) National laws or regulations should require producers and suppliers of asbestos and manufacturers and suppliers of products containing asbestos to develop and provide a data sheet listing the asbestos content, health hazards and appropriate protective measures for the material or product.

21. The system of inspection provided for in Article 5 of the Asbestos Convention, 1986, should be based on the provisions of the Labour Inspection Convention, 1947. Inspection should be carried out by qualified personnel. The

inspection services should be able to obtain from the employer the information referred to in Paragraph 13 above.

22. (1) The exposure limits should be fixed by reference to the time-weighted concentration of airborne asbestos dust, commonly expressed in terms of an eight-hour day and a 40-hour week, and to a recognised method of sampling and measuring.

(2) The exposure limits should be periodically reviewed and updated in the light of technological progress and advances in technical and medical knowledge.

23. The installations, ventilation systems, machinery and protective appliances for asbestos dust control should be regularly checked and maintained in good working order.

24. Workplaces should be cleaned by a safe method as frequently as is necessary to prevent the accumulation of asbestos dust on surfaces. The provisions of the Asbestos Convention, 1986, and this Recommendation should apply to the cleaning staff.

25. (1) When hazards from airborne asbestos dust cannot be otherwise prevented or controlled, the employer should provide, maintain and replace as necessary, at no cost to the workers, adequate respiratory protective equipment and special clothing as appropriate. In such situations, the workers should be required to use such equipment.

(2) Respiratory protective equipment should comply with standards set by the competent authority and be used only as a supplementary, temporary, emergency or exceptional measure and not as an alternative to technical control.

(3) When the use of respiratory equipment is required, adequate rest breaks in appropriate rest areas should be provided for, taking into account the physical strain caused by the use of such equipment.

26. (1) Where workers' personal clothing may become contaminated with asbestos dust, the employer, in accordance with national laws or regulations and in consultation with the workers' representatives, should provide at no cost to the worker appropriate work clothing, which should not be worn outside the workplace.

(2) Employers should provide workers with adequate information in an appropriate form on the health hazards to their families or others which could result from taking home clothing contaminated by asbestos dust.

(3) The handling and cleaning of used work clothing and special protective clothing should be carried out under controlled conditions, as required by the competent authority, to prevent the release of asbestos dust.

27. (1) For workers who are exposed to asbestos, double changing rooms, washing facilities, showers and rest areas, as appropriate, should be provided.

(2) Adequate time should be allowed, within working hours, for changing, showering or washing after the work shift, in accordance with national practice.

28. (1) In accordance with national law and practice, employers should dispose of waste containing asbestos in a manner that does not pose a health risk to the workers concerned, including those handling asbestos waste, or to the population in the vicinity of the enterprise.

(2) Appropriate measures should be taken by the competent authority and by employers to prevent pollution of the general environment by asbestos dust released from the workplace.

IV. SURVEILLANCE OF THE WORKING ENVIRONMENT AND WORKERS' HEALTH

29. In cases determined by the competent authority, the employer should make arrangements for systematic surveillance of the concentration of airborne asbestos dust in the workplace and of the duration and level of exposure of workers to asbestos and for the surveillance of the workers' health.

30. (1) The level of exposure of workers to asbestos should be measured or calculated in terms of time-weighted average concentrations for a specific reference period.

(2) The sampling and measurement of the concentration of airborne asbestos dust should be carried out by qualified personnel, using methods approved by the competent authority.

(3) The frequency and extent of sampling and measurement should be related to the level of risk, to changes in the work processes or other relevant circumstances.

(4) In evaluating the risk the competent authority should take into consideration the risk posed by all sizes of asbestos fibres.

31. (1) For the prevention of disease and functional impairment related to exposure to asbestos, all workers assigned to work involving exposure to asbestos should be provided, as appropriate, with -

- (a) a pre-assignment medical examination;
- (b) periodic medical examinations at appropriate intervals;
- (c) other tests and investigations, in particular chest radiographs and lung function tests, which may be necessary to supervise their state of health in relation to the occupational hazard and to identify early indicators of disease caused by asbestos.

(2) The intervals between medical examinations should be determined by the competent authority, taking into account the level of exposure and the workers' state of health in relation to the occupational hazard.

(3) The competent authority should ensure that provision is made, in accordance with national law and practice, for appropriate medical examinations to continue to be available to workers after termination of an assignment involving exposure to asbestos.

(4) The examinations, tests and investigations provided for in subparagraphs (1) and (3) above should be carried out as far as possible in working hours and should entail no cost to the worker.

(5) Where the results of medical tests or investigations reveal clinical or preclinical effects, measures should be taken to prevent or reduce exposure of the workers concerned and to prevent further deterioration of their health.

(6) Results of medical examinations should be used to determine health status with regard to exposure to asbestos and should not be used to discriminate against the worker.

(7) The results of medical examinations should be used to help place the worker in a job which is compatible with the status of his health.

(8) Workers subject to supervision of their health should have-

- (a) the right to confidentiality of personal and medical information;
- (b) the right to full and detailed explanations of the purposes and results of the supervision;
- (c) the right to refuse invasive medical procedures which infringe on their corporal integrity.

32. Workers should be informed in an adequate and appropriate manner, in accordance with national practice, of the results of the medical examinations and receive individual advice concerning their health in relation to their work.

33. When an occupational disease caused by asbestos has been detected by health surveillance, the competent authority should be notified in conformity with national law and practice.

34. When continued assignment to work involving exposure to asbestos is found to be medically inadvisable every effort should be made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income.

35. National laws or regulations should provide for the compensation of workers who contract a disease or develop a functional impairment related to occupational exposure to asbestos, in accordance with the Employment Injury Benefits Convention, 1964.

36. (1) The records of the monitoring of the working environment should be kept for a period of not less than 30 years.

(2) Records of the monitoring of exposure of workers as well as the sections of their medical files relevant to health hazards due to exposure to asbestos and chest radiographs should be kept for a period of not less than 30 years following termination of an assignment involving exposure to asbestos.

37. The workers concerned, their representatives and the inspection services should have access to the records of the monitoring of the working environment.

38. In the case of closure of an undertaking, or after termination of engagement of a worker, records and information kept in accordance with Paragraph 36 above should be deposited in accordance with the directions of the competent authority.

39. In accordance with the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office, a national or multinational enterprise with more than one establishment should be required to provide safety measures relating to the prevention and control of, and protection against, health hazards due to occupational exposure to asbestos, without discrimination, to the workers in all its establishments regardless of the place or country in which they are situated.

V. INFORMATION AND EDUCATION

40. The competent authority should take measures to promote the training and information of all persons concerned with respect to the prevention and control of, and protection against, health hazards due to occupational exposure to asbestos.

41. The competent authority, in consultation with the most representative organisations of employers and workers concerned, should draw up suitable educational guides for employers, workers and others.

42. Employers should ensure that workers liable to be exposed to asbestos receive periodic training and instructions, at no cost to them, in a language and manner which are easily understood by them, on the effects of such exposure on health, on measures to be taken to prevent and control exposure to asbestos, especially on correct work practices which prevent and control the formation and release of asbestos dust into the air and on the use of the general and personal protective equipment placed at the workers' disposal.

43. Educational measures should draw attention to the particular danger to the health of workers created by the combination of smoking and exposure to asbestos.

44. Employers' and workers' organisations should take positive action to co-operate in and contribute to programmes of training, information, prevention, control and protection in relation to occupational hazards due to exposure to asbestos.

Convention 163

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

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-fourth Session on 24 September
1987, and

Recalling the provisions of the Seamen's Welfare in Ports Recommendation,
1936, and the Seafarers' Welfare Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to seafarers'
welfare at sea and in port which is the second 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 October of the year one thousand nine hundred and
eighty-seven the following Convention which may be cited as the Seafarers'
Welfare Convention, 1987:

Article 1

1. For the purposes of this Convention—

- (a) the term "seafarer" means any person who is employed in any capacity on
board a seagoing ship, whether publicly or privately owned, other than a ship
of war;
- (b) the term "welfare facilities and services" means welfare, cultural, recreational
and information facilities and services.

2. Each Member shall determine by national laws or regulations, after consul-
tation with the representative organisations of shipowners and seafarers, which
ships registered in its territory are to be regarded as seagoing ships for the purpose
of the provisions of this Convention relating to welfare facilities and services on
board ship.

3. To the extent it deems practicable, after consultation with the representa-
tive organisations of fishing vessel owners and fishermen, the competent authority
shall apply the provisions of this Convention to commercial maritime fishing.

Article 2

1. Each Member for which this Convention is in force undertakes to ensure
that adequate welfare facilities and services are provided for seafarers both in port
and on board ship.

2. Each Member shall ensure that the necessary arrangements are made for
financing the welfare facilities and services provided in accordance with the
provisions of this Convention.

Article 3

1. Each Member undertakes to ensure that welfare facilities and services are
provided in appropriate ports of the country for all seafarers, irrespective of
nationality, race, colour, sex, religion, political opinion or social origin and

irrespective of the State in which the ship on which they are employed is registered.

2. Each Member shall determine, after consultation with the representative organisations of shipowners and seafarers, which ports are to be regarded as appropriate for the purposes of this Article.

Article 4

Each Member undertakes to ensure that the welfare facilities and services on every seagoing ship, whether publicly or privately owned, which is registered in its territory, are provided for the benefit of all seafarers on board.

Article 5

Welfare facilities and services shall be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

Article 6

Each Member undertakes—

- (a) to co-operate with other Members with a view to ensuring the application of this Convention; and
- (b) to ensure co-operation between the parties engaged and interested in promoting the welfare of seafarers at sea and in port.

Article 7

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

Article 8

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

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

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

Article 9

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

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

denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

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

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

Article 11

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

Article 12

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

Article 13

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

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

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

Article 14

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

Recommendation 173

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

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-fourth Session on 24 September
1987, and

Recalling the provisions of the Seamen's Welfare in Ports Recommendation,
1936, and the Seafarers' Welfare Recommendation, 1970, and

Having decided upon the adoption of certain proposals with regard to seafarers' welfare at sea and in port which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Seafarers' Welfare Convention, 1987.

adopts this eighth day of October of the year one thousand nine hundred and eighty-seven the following Recommendation, which may be cited as the Seafarers' Welfare Recommendation, 1987.

I. GENERAL

1. For the purposes of this Recommendation:

- (a) the term "seafarer" means any person who is employed in any capacity on board a seagoing ship, whether publicly or privately owned, other than a ship of war;
- (b) the term "welfare facilities and services" means welfare, cultural, recreational and information facilities and services.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing.

3. (1) Measures should be taken by Members to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship, and that adequate protection is provided to seafarers in the exercise of their calling.

(2) In the implementation of these measures, Members should take into account the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities.

4. Arrangements for the supervision of welfare facilities and services should include participation by representative organisations of seafarers and shipowners.

5. The welfare facilities and services provided pursuant to this Recommendation should be available to all seafarers, irrespective of nationality, race, colour,

sex, religion, political opinion or social origin and irrespective of the State in which the ship on which they are employed is registered.

6. Members should co-operate with one another in promoting the welfare of seafarers at sea and in port. Such co-operation should include the following:

- (a) consultations between the competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ship;
- (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
- (c) organising international sports competitions and encouraging the participation of seafarers in sports activities;
- (d) organising international seminars on the subject of welfare of seafarers at sea and in port.

II. WELFARE FACILITIES AND SERVICES IN PORTS

7. (1) Members should provide or ensure the provision of such welfare facilities and services as may be required in appropriate ports of the country.

(2) Members should consult with the representative organisations of shipowners and seafarers in determining the appropriate ports.

(3) Welfare facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.

8. (1) Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:

- (a) the public authorities;
- (b) the shipowners' and seafarers' organisations under collective agreements or other agreed arrangements;
- (c) voluntary organisations.

(2) Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.

9. (1) Welfare boards should be established, at the port, regional and national levels, as appropriate, whose functions should include—

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilised facilities;
- (b) assisting and advising those responsible for providing welfare facilities and ensuring co-ordination between them.

(2) Welfare boards should include among their members representatives of organisations of shipowners and seafarers, the competent authorities and, where appropriate, voluntary organisations and social bodies.

(3) As appropriate, consuls of maritime States and local representatives of foreign welfare organisations should be associated with the work of port, regional and national welfare boards in accordance with national laws and regulations.

10. (1) Members should ensure that adequate and regular financial support is provided for seafarers' welfare facilities and services.

(2) In accordance with national conditions and practice, this financial support should be made available through one or more of the following:

- (a) grants from public funds;
- (b) levies or other special dues from shipping sources;
- (c) voluntary contributions from shipowners, seafarers, or their organisations;
- (d) voluntary contributions from other sources.

(3) Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised.

11. Hotels or hostels suitable for seafarers should be available where there is need for them. Such hotels or hostels should be properly supervised, the prices charged should be reasonable in amount and, where necessary and possible, provision should be made for accommodating seafarers' families.

12. (1) Necessary welfare and recreational facilities should be established or developed in ports. These should include—

- (a) meeting and recreation rooms as required;
- (b) facilities for sports and outdoor facilities, including competitions;
- (c) educational facilities;
- (d) where appropriate, facilities for religious observances and for personal counselling.

(2) These facilities may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.

13. Where large numbers of seafarers of different nationalities require facilities such as hotels, clubs and sports facilities in a particular port, the competent authorities or bodies of the countries of origin of the seafarers and of the flag States, as well as the international associations concerned, should consult and co-operate with the competent authorities and bodies of the country in which the port is situated and with one another, with a view to the pooling of resources and to avoiding unnecessary duplication.

14. (1) Information should be disseminated among seafarers concerning facilities open to the general public in ports of call—particularly transport, welfare, entertainment and educational facilities and places of worship—as well as facilities provided specifically for seafarers.

(2) The means of disseminating such information might include—

- (a) the distribution on shore and, subject to the consent of the master, on board ship, of booklets in the most appropriate languages giving clear information as to the facilities available for seafarers in the port of call or in the next port for which the ship is bound; such booklets should contain a plan of the urban area and port;
- (b) the creation in the larger ports of information offices, easily accessible to seafarers and staffed by persons capable of giving directly such explanations and guidance as may be useful.

15. Adequate means of transportation at moderate prices should be available at any reasonable time, when needed in order to enable seafarers to reach urban areas from convenient locations in the port.

16. All suitable measures should be taken to make known to seafarers entering port—

- (a) any particular hazards and diseases to which they may be exposed and means of avoiding them;

- (b) the necessity for persons suffering from diseases to undergo early treatment and the nearest facilities available for such treatment;
- (c) the dangers arising from the use of narcotics and alcohol.

17. Measures should be taken to ensure that seafarers have access when in port to-

- (a) out-patient treatment for sickness and injury;
- (b) hospitalisation when necessary;
- (c) facilities for dental treatment, especially in cases of emergency.

18. All suitable measures should be taken by the competent authorities to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardise their freedom.

19. Port areas and access roads should be provided by the competent authorities with adequate lighting and signposting and regular patrols for the protection of seafarers.

20. (1) For the protection of foreign seafarers, measures should be taken to facilitate-

- (a) access to their consuls;
- (b) effective co-operation between consuls and the local or national authorities.

(2) Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if he so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority should promptly inform the seafarer of the right to make such a request. The State of nationality of the seafarer should promptly notify the seafarer's next of kin. If a seafarer is interned, the Member should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is interned.

(3) The case of a detained seafarer should be dealt with promptly under due process of law, and the flag State and the State of nationality of the detained seafarer should be kept informed of developments as they occur.

21. (1) Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation.

(2) In the event of delay in the repatriation of seafarers, the competent authority should ensure that the consular or local representative of the flag State is informed immediately.

22. Members should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in their territorial waters and especially in approaches to ports.

III. WELFARE FACILITIES AND SERVICES AT SEA

23. (1) Welfare facilities and amenities should be provided on board ship for the benefit of the seafarers. Where practicable such facilities should include-

- (a) television viewing and the reception of radio broadcasts;
- (b) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;

- (c) sports equipment including exercise equipment, table games, deck games;
- (d) where possible, facilities for swimming;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts.

(2) Where possible and appropriate, the provision of bars on board ship for seafarers should be considered, unless this is contrary to national, religious or social customs.

24. Vocational training schemes for seafarers should, where appropriate, include education and information on matters affecting their welfare, including general health hazards.

25. (1) Access to ship-to-shore telephone communications, where available, should be granted and charges for the use of the service should be reasonable in amount.

(2) Every effort should be made to ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible. Efforts should also be made to avoid seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control.

26. (1) Measures should be taken to ensure, subject to any applicable national or international laws or regulations, that whenever possible and reasonable seafarers are expeditiously granted permission to have their spouses, relatives and friends as visitors on board their ship when in port.

(2) Consideration should be given to the possibility of allowing seafarers to be accompanied by their spouses on an occasional voyage where this is practicable and reasonable. Such spouses should carry adequate insurance cover against accident and illness; the shipowners should give every assistance to the seafarer to effect such insurance.

27. Every effort should be made by those responsible in port and on board ship to facilitate shore leave for seafarers as soon as possible after a ship's arrival in port.

IV. SAVINGS AND REMITTANCE OF WAGES

28. In order to help seafarers to save and to transmit their savings to their families-

- (a) there should be adopted a simple, rapid and safe system, operating with the assistance of consuls or other competent authorities, masters, shipowners' agents or reliable financial institutions, for enabling seafarers, and more especially those who are in a foreign country or serving in a ship registered in a country other than their own, to deposit or remit the whole or part of their wages;
- (b) a system for enabling seafarers, at the time of their signing on or during the voyage, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families should be instituted or made of more general application;
- (c) allotments should be remitted in due time and directly to the person or persons nominated by the seafarer;
- (d) efforts should be made to provide independent confirmation that seafarers' allotments are actually remitted to the person or persons nominated.

Convention 164

**CONVENTION CONCERNING HEALTH PROTECTION
AND MEDICAL CARE FOR SEAFARERS**

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-fourth Session on 24 September
1987, and

Noting the provisions of the Medical Examination (Seafarers) Convention,
1946, the Accommodation of Crews Convention (Revised), 1949, the Accommodation of Crews (Supplementary Provisions) Convention, 1970, the Ships' Medicine Chests Recommendation, 1958, the Medical Advice at Sea Recommendation, 1958, and the Prevention of Accidents (Seafarers) Convention and Recommendation, 1970, and

Noting the terms of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as regards training in medical aid in the case of accidents or illnesses that are likely to occur on board ship, and

Noting that for the success of action in the field of health protection and medical care for seafarers, it is important that close co-operation be maintained in their respective fields between the International Labour Organisation, the International Maritime Organization and the World Health Organization, and

Noting that the following standards have accordingly been framed with the cooperation of the International Maritime Organization and the World Health Organization, and that it is proposed to seek their continuing co-operation in the application of these standards, and

Having decided upon the adoption of certain proposals with regard to health protection and medical care for seafarers, 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 eighth day of October of the year one thousand nine hundred and eighty-seven the following Convention which may be cited as the Health Protection and Medical Care (Seafarers) Convention, 1987:

Article 1

1. This Convention applies to every seagoing ship whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as engaged in commercial maritime navigation or commercial maritime fishing for the

purpose of this Convention, the question shall be determined by the competent authority after consultation with the organisations of shipowners, seafarers and fishermen concerned.

4. For the purpose of this Convention the term "seafarer" means any person who is employed in any capacity on board a seagoing ship to which this Convention applies.

Article 2

Effect shall be given to this Convention by national laws or regulations, collective agreements, works rules, arbitration awards or court decisions or other means appropriate to national conditions.

Article 3

Each Member shall by national laws or regulations make shipowners responsible for keeping ships in proper sanitary and hygienic conditions.

Article 4

Each Member shall ensure that measures providing for health protection and medical care for seafarers on board ship are adopted which—

- (a) ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to the seafaring profession, as well as of special provisions peculiar to work on board;
- (b) aim at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore;
- (c) guarantee seafarers the right to visit a doctor without delay in ports of call where practicable;
- (d) ensure that, in accordance with national law and practice, medical care and health protection while a seafarer is serving on articles are provided free of charge to seafarers;
- (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character, and devote particular attention to the development of health promotion and health education programmes in order that seafarers themselves may play an active part in reducing the incidence of ill-health among their number.

Article 5

1. Every ship to which this Convention applies shall be required to carry a medicine chest.

2. The contents of the medicine chest and the medical equipment carried on board shall be prescribed by the competent authority taking into account such factors as the type of ship, the number of persons on board and the nature, destination and duration of voyages.

3. In adopting or reviewing the national provisions concerning the contents of the medicine chest and the medical equipment carried on board, the competent authority shall take into account international recommendations in this field, such as the most recent edition of the *International Medical Guide for Ships* and the *List of Essential Drugs* published by the World Health Organization, as well as advances in medical knowledge and approved methods of treatment.

4. The medicine chest and its contents as well as the medical equipment carried on board shall be properly maintained and inspected at regular intervals,

not exceeding 12 months, by responsible persons designated by the competent authority, who shall ensure that the expiry dates and conditions of storage of all medicines are checked.

5. The competent authority shall ensure that the contents of the medicine chest are listed and labelled with generic names in addition to any brand names used, expiry dates and conditions of storage, and that they conform to the medical guide used nationally.

6. The competent authority shall ensure that where a cargo which is classified dangerous has not been included in the most recent edition of the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods* published by the International Maritime Organization, the necessary information on the nature of the substances, the risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes is made available to the master, seafarers and other interested persons. Such specific antidotes and personal protective devices shall be on board whenever dangerous goods are carried.

7. In cases of urgent necessity and when a medicine prescribed by qualified medical personnel for a seafarer is not available in the medicine chest, the shipowner shall take all necessary steps to obtain it as soon as possible.

Article 6

1. Every ship to which this Convention applies shall be required to carry a ship's medical guide adopted by the competent authority.

2. The medical guide shall explain how the contents of the medicine chest are to be used and shall be designed to enable persons other than a doctor to care for the sick or injured on board both with and without medical advice by radio or satellite communication.

3. In adopting or reviewing the ship's medical guide used nationally, the competent authority shall take into account international recommendations in this field, including the most recent edition of the *International Medical Guide for Ships* and the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*.

Article 7

1. The competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available at any hour of the day or night.

2. Such medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the territory in which they are registered.

3. With a view to ensuring that optimum use is made of facilities available for medical advice by radio or satellite communication—

(a) all ships to which this Convention applies which are equipped with radio installations shall carry a complete list of radio stations through which medical advice can be obtained;

(b) all ships to which this Convention applies which are equipped with a system of satellite communication shall carry a complete list of coast earth stations through which medical advice can be obtained;

(c) the lists shall be kept up to date and in the custody of the person on board responsible for communication duties.

4. Seafarers on board requesting medical advice by radio or satellite communication shall be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the *International Code of Signals* published by the International Maritime Organization so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.

5. The competent authority shall ensure that doctors providing medical advice in accordance with this Article receive appropriate training and are aware of shipboard conditions.

Article 8

1. All ships to which this Convention applies carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days' duration shall carry a medical doctor as a member of the crew responsible for providing medical care.

2. National laws or regulations shall determine which other ships shall be required to carry a medical doctor as a member of the crew, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board.

Article 9

1. All ships to which this Convention applies and which do not carry a doctor shall carry as members of the crew one or more specified persons in charge of medical care and the administering of medicines as part of their regular duties.

2. Persons in charge of medical care on board who are not doctors shall have satisfactorily completed a course approved by the competent authority of theoretical and applied training in medical skills. This course shall comprise—

(a) for ships of less than 1,600 gross tonnage which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours, elementary training which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board ship and to make use of medical advice by radio or satellite communication;

(b) for all other ships, more advanced medical training, including practical training in the emergency/casualty department of a hospital where practicable and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in co-ordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board. Wherever possible, this training shall be provided under the supervision of a physician with a thorough knowledge and understanding of the medical problems and circumstances relating to the seafaring profession, including expert knowledge of radio or satellite communication medical services.

3. The courses referred to in this Article shall be based on the contents of the most recent edition of the *International Medical Guide for Ships*, the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the *Document for Guidance - An International Maritime Training Guide* published by the International Maritime Organization, and the medical section of the *International Code of Signals* as well as similar national guides.

4. Persons referred to in paragraph 2 of this Article and such other seafarers as may be required by the competent authority shall undergo refresher courses to enable them to maintain and increase their knowledge and skills and to keep abreast of new developments, at approximately five-year intervals.

5. All seafarers, during their maritime vocational training, shall receive instruction on the immediate action that should be taken on encountering an accident or other medical emergency on board.

6. In addition to the person or persons in charge of medical care on board, a specified crew member or crew members shall receive elementary training in medical care to enable him or them to take immediate effective action in case of accidents or illnesses likely to occur on board ship.

Article 10

All ships to which this Convention applies shall provide all possible medical assistance, where practicable, to other vessels which may request it.

Article 11

1. In any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration, separate hospital accommodation shall be provided. The competent authority may relax this requirement in respect of ships engaged in coastal trade.

2. In any ship of between 200 and 500 gross tonnage and in tugs this Article shall be applied where reasonable and practicable.

3. This Article does not apply to ships primarily propelled by sail.

4. The hospital accommodation shall be suitably situated, so that it is easy of access and so that the occupants may be comfortably housed and may receive proper attention in all weathers.

5. The hospital accommodation shall be so designed as to facilitate consultation and the giving of medical first aid.

6. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply shall be designed to ensure the comfort and facilitate the treatment of the occupants.

7. The number of hospital berths required shall be prescribed by the competent authority.

8. Water closet accommodation shall be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto.

9. Hospital accommodation shall not be used for other than medical purposes.

Article 12

1. A standard medical report form for seafarers shall be adopted by the competent authority as a model for use by ships' doctors, masters or persons in charge of medical care on board and hospitals or doctors ashore.

2. The form shall be specially designed to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.

3. The information contained in the medical report form shall be kept confidential and shall be used for no other purpose than to facilitate the treatment of seafarers.

Article 13

1. Members for which this Convention is in force shall co-operate with one another in promoting protection of the health of seafarers and medical care for them on board ship.

2. Such co-operation might cover the following matters:

- (a) developing and co-ordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue co-ordination centres and emergency helicopter services, in conformity with the provisions of the International Convention of Maritime Search and Rescue, 1979, and the *Merchant Ship Search and Rescue Manual* and *IMO Search and Rescue Manual* developed by the International Maritime Organization;
- (b) making optimum use of fishing vessels carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
- (c) compiling and maintaining an international list of doctors and medical care facilities available world-wide to provide emergency medical care to seafarers;
- (d) landing seafarers in port for emergency treatment;
- (e) repatriating seafarers hospitalised abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (f) arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;
- (g) endeavouring to set up health centres for seafarers to—
 - (i) conduct research on the health status, medical treatment and preventive health care of seafarers;
 - (ii) train medical and health service staff in maritime medicine;
- (h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities to seafarers and integrating and harmonising them with any existing national system of statistics on occupational accidents, diseases and fatalities covering other categories of workers;
- (i) organising international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;
- (j) providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services;
- (k) arranging for the repatriation of the bodies or ashes, in accordance with the wishes of the next of kin, of deceased seafarers as soon as practicable.

3. International co-operation in the field of health protection and medical care for seafarers shall be based on bilateral or multilateral agreements or consultations among Members.

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.

Convention 165

**CONVENTION CONCERNING SOCIAL SECURITY FOR SEAFARERS
(REVISED)**

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-fourth Session on 24 September 1987, and
Having decided upon the adoption of certain proposals with regard to the social security protection for seafarers including those serving in ships flying flags other than those of their own country, which is the third item on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention revising the Sickness Insurance (Sea) Convention, 1936, and the Social Security (Seafarers) Convention, 1946,
adopts this ninth day of October of the year one thousand nine hundred and eighty-seven the following Convention, which may be cited as the Social Security (Seafarers) Convention (Revised), 1987.

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 "seafarers" means persons employed in any capacity on board a seagoing ship which is engaged in the transport of cargo or passengers for the purpose of trade, is utilised for any other commercial purpose or is a seagoing tug, with the exception of persons employed on —
- (i) small vessels including those primarily propelled by sail, whether or not they are fitted with auxiliary engines;
 - (ii) vessels such as oil rigs and drilling platforms when not engaged in navigation;
- the decision as to which vessels and installations are covered by clauses (i) and (ii) being taken by the competent authority of each Member in consultation with the most representative organisations of shipowners and seafarers;
- (d) the term "dependant" has the meaning assigned to it by national legislation;
- (e) the term "survivors" means persons defined or recognised as such by the legislation under which the 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;

- (f) the term "competent Member" means the Member under whose legislation the person concerned can claim benefit;
- (g) the term "residence" and "resident" refer to ordinary residence;
- (h) the term "temporarily resident" refers to a temporary stay;
- (i) the term "repatriation" means transportation to a place to which seafarers are entitled to be returned under laws and regulations or collective agreements applicable to them;
- (j) 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;
- (k) 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;
- (l) 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. The Convention applies to all seafarers and, where applicable, their dependants and their survivors.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

Article 3

Members are bound to comply with the provisions of Article 9 or Article 11 in respect of at least three of the following branches of social security:

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

including at least one of the branches specified in subparagraphs (c), (d), (e), (h) and (i).

Article 4

Each Member shall specify at the time of its ratification in respect of which of the branches mentioned in Article 3 it accepts the obligations of Article 9 or Article 11, and shall indicate separately in respect of each of the branches specified whether it undertakes to apply the minimum standards of Article 9 or the superior standards of Article 11 to that branch.

Article 5

Each Member may subsequently notify the Director-General of the International Labour Office that it accepts, with effect from the date of the notification,

the obligations of this Convention in respect of one or more of the branches mentioned in Article 3 not already specified at the time of its ratification, indicating separately in respect of each of these branches whether it undertakes to apply to that branch the minimum standards of Article 9 or the superior standards of Article 11.

Article 6

A Member may by a notification to the Director-General of the International Labour Office, which shall take effect as from the date of the notification, subsequently replace the application of the provisions of Article 9 by that of the provisions of Article 11 in respect of any branch accepted.

PART II. PROTECTION PROVIDED

GENERAL STANDARDS

Article 7

The legislation of each Member shall provide for seafarers to whom the legislation of that Member is applicable social security protection not less favourable than that enjoyed by shoreworkers in respect of each of the branches of social security mentioned in Article 3 for which it has legislation in force.

Article 8

Arrangements for the maintenance of rights in course of acquisition by a person who, having ceased to be subject to a Member's scheme of compulsory social security for seafarers, becomes subject to an equivalent scheme of that Member for shoreworkers, or vice versa, shall be made between the schemes concerned.

MINIMUM STANDARDS

Article 9

When a Member has undertaken to apply the provisions of this Article to any branch of social security, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to social security benefits not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified in the following provisions of the Social Security (Minimum Standards) Convention, 1952, for the branch in question:

- (a) for *medical care* in Articles 8, 10 (paragraphs 1, 2 and 3), 11 and 12 (paragraph 1);
- (b) for *sickness benefit* in Articles 14, 16 (in conjunction with Article 65 or 66 or 67), 17 and 18 (paragraph 1);
- (c) for *unemployment benefit* in Articles 20, 22 (in conjunction with Article 65 or 66 or 67), 23 and 24;
- (d) for *old-age benefit* in Articles 26, 28 (in conjunction with Article 65 or 66 or 67), 29 and 30;
- (e) for *employment injury benefit* in Articles 32, 34 (paragraphs 1, 2 and 4), 35, 36 (in conjunction with Article 65 or 66) and 38;
- (f) for *family benefit* in Articles 40, 42, 43, 44 (in conjunction with Article 66, where applicable) and 45;

- (g) for *maternity benefit* in Articles 47, 49 (paragraphs 1, 2 and 3), 50 (in conjunction with Article 65 or 66), 51 and 52;
- (h) for *invalidity benefit* in Articles 54, 56 (in conjunction with Article 65 or 66 or 67), 57 and 58;
- (i) for *survivors' benefit* in Articles 60, 62 (in conjunction with Article 65 or 66 or 67), 63 and 64.

Article 10

For the purpose of compliance with the provisions of subparagraphs (a), (b), (c), (d), (g) (as regards medical care), (h) or (i) of Article 9, a Member may take account of protection effected by means of insurance which is not made compulsory for seafarers by its legislation when this insurance—

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of shipowners and seafarers;
- (b) covers a substantial proportion of the seafarers whose earnings do not exceed those of a skilled employee; and
- (c) complies, in conjunction with other forms of protection where appropriate, with the relevant provisions of the Social Security (Minimum Standards) Convention, 1952.

SUPERIOR STANDARDS

Article 11

When a Member has undertaken to apply the provisions of this Article to any branch of social security, seafarers and, where applicable, their dependants and survivors who are protected by the legislation of that Member shall be entitled to social security benefits not less favourable in respect of contingencies covered, conditions of award, level and duration than those specified—

- (a) for *medical care* in Articles 7(a), 8, 9, 13, 15, 16 and 17 of the Medical Care and Sickness Benefits Convention, 1969;
- (b) for *sickness benefit* in Articles 7(b), 18, 21 (in conjunction with Article 22 or 23 or 24), 25 and 26 (paragraphs 1 and 3) of the Medical Care and Sickness Benefits Convention, 1969;
- (c) for *old-age benefit* in Articles 15, 17 (in conjunction with Article 26 or 27 or 28), 18, 19 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
- (d) for *employment injury benefit* in Articles 6, 9 (paragraphs 2 and 3 (introductory sentence)), 10, 13 (in conjunction with Article 19 or 20), 14 (in conjunction with Article 19 or 20), 15 (paragraph 1), 16, 17, 18 (paragraphs 1 and 2) (in conjunction with Article 19 or 20) and 21 (paragraph 1) of the Employment Injury Benefits Convention, 1964;
- (e) for *maternity benefit* in Articles 3 and 4 of the Maternity Protection Convention (Revised), 1952;
- (f) for *invalidity benefit* in Articles 8, 10 (in conjunction with Article 26 or 27 or 28), 11, 12, 13 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;
- (g) for *survivors' benefit* in Articles 21, 23 (in conjunction with Article 26 or 27 or 28), 24, 25 and 29 (paragraph 1) of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967;

- (h) for *unemployment benefit* and *family benefit* in any future Convention laying down standards superior to those specified in subparagraphs (c) and (f) of Article 9 which the General Conference of the International Labour Organisation has, after its coming into force, recognised as applicable for the purpose of this clause by means of a Protocol adopted in the framework of a special maritime question included in its agenda.

Article 12

For the purpose of compliance with the provisions of subparagraphs (a), (b), (c), (e) (as regards medical care), (f), (g) or (h) (unemployment benefit) of Article 11, a Member may take account of protection effected by means of insurance which is not made compulsory for seafarers by its legislation when this insurance—

- (a) is supervised by the public authorities or administered, in accordance with prescribed standards, by joint operation of shipowners and seafarers;
- (b) covers a substantial proportion of seafarers whose earnings do not exceed those of a skilled employee; and
- (c) complies, in conjunction with other forms of protection, where appropriate, with the provisions of the Conventions referred to in the above-mentioned clauses of Article 11.

PART III. SHIPOWNER'S LIABILITY

Article 13

The shipowner shall be required to provide to seafarers whose condition requires medical care while they are on board or who are left behind by reason of their condition in the territory of a State other than the competent Member—

- (a) proper and sufficient medical care until their recovery or until their repatriation, whichever first occurs;
- (b) board and lodging until they are able to obtain suitable employment or are repatriated, whichever first occurs; and
- (c) repatriation.

Article 14

Seafarers who by reason of their condition are left behind in the territory of a State other than the competent Member shall continue to be entitled to their full wages (exclusive of bonuses) from the time when they are left behind until they receive an offer of suitable employment, or until they are repatriated, or until the expiry of a period of a length (which shall not be less than 12 weeks) prescribed by the national laws or regulations of that Member or by collective agreement, whichever event first occurs. The shipowner shall cease to be liable for the payment of wages from the time such seafarers are entitled to cash benefits under the legislation of the competent Member.

Article 15

Seafarers who by reason of their condition are repatriated or are landed in the territory of the competent Member shall continue to be entitled to their full wages (exclusive of bonuses) from the time when they are repatriated or landed until their recovery, or until the expiry of a period of a length (which shall not be less than 12 weeks) prescribed by the national laws or regulations of that Member or by collective agreement, whichever event first occurs. Any period during which wages were paid by virtue of Article 14 shall be deducted from such period. The

shipowner shall cease to be liable for the payment of wages from the time such seafarers are entitled to cash benefits under the legislation of the competent Member.

PART IV. PROTECTION OF FOREIGN OR MIGRANT SEAFARERS

Article 16

The following rules shall apply to seafarers who are or have been subject to the legislation of one or more Members, as well as, where applicable, to their dependants and their survivors, in respect of any branch of social security specified in Article 3 for which any such Member has legislation applicable to seafarers in force.

Article 17

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, the legislation applicable in respect of seafarers shall be determined by the Members concerned in accordance with the following rules:

- (a) seafarers shall be subject to the legislation of one Member only;
- (b) in principle this legislation shall be
 - the legislation of the Member whose flag the ship is flying, or
 - the legislation of the Member in whose territory the seafarer is resident;
- (c) notwithstanding the rules set forth in the preceding subparagraphs, Members concerned may determine, by mutual agreement, other rules concerning the legislation applicable to seafarers, in the interest of the persons concerned.

Article 18

Seafarers who are subject to the legislation of a Member and are nationals of another Member, or are refugees or stateless persons resident in the territory of a Member, shall enjoy under that legislation equality of treatment with the nationals of the first Member, both as regards coverage and as regards the right to benefits. They shall enjoy equality of treatment without any condition of residence on the territory of the first Member if its nationals are protected without any such condition. This requirement shall also apply, where appropriate, as regards the right to benefit of seafarers' dependants and survivors irrespective of their nationality.

Article 19

Notwithstanding the provisions of Article 18, the award of non-contributory benefits may be made conditional on the beneficiary having resided in the territory of the competent Member or, in the case of survivors' benefit, on the deceased having resided there for a period which may not be set at more than-

- (a) six months immediately preceding the lodging of the claim, for unemployment benefit and maternity benefit;
- (b) five consecutive years immediately preceding the lodging of the claim, for invalidity benefit, or immediately preceding the death, for survivors' benefit;
- (c) ten years between the age of 18 and the pensionable age, of which it may be required that five years shall immediately precede the lodging of the claim, for old-age benefit.

Article 20

The laws and regulations of each Member relating to shipowners' liability provided for in Articles 13 to 15 shall ensure equality of treatment to seafarers irrespective of their place of residence.

Article 21

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 specified in Article 3, for which each of these Members has legislation in force, for the benefit of persons who have been subject successively or alternately, in the capacity of seafarers, to the legislation of the said Members.

Article 22

The schemes for the maintenance of rights in course of acquisition referred to in Article 21 shall provide for the adding together, to the extent necessary, of periods of insurance, employment or residence, as the case may be, completed under the legislation of the Members concerned for the purposes of acquisition, maintenance or recovery of rights and, as the case may be, calculation of benefits.

Article 23

The schemes for the maintenance of rights in course of acquisition referred to in Article 21 shall determine the formula for awarding invalidity, old-age and survivors' benefits, as well as the apportionment, where appropriate, of the costs involved.

Article 24

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 being taken, where necessary, by agreement between the Members or with the States concerned.

Article 25

Notwithstanding the provisions of Article 24, 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 outside the territory of the competent Member.

Article 26

A Member having accepted the obligations of the Equality of Treatment (Social Security) Convention, 1962, for one or more of the branches of social security referred to in Article 24, but not those of the Maintenance of Social Security Rights Convention, 1982, may, in respect of each branch for which it has accepted the obligations of the first-mentioned Convention, derogate from the provisions of Article 24 and apply in its place the provisions of Article 5 of that Convention.

Article 27

Members concerned shall endeavour to participate in schemes for the maintenance of rights acquired under their legislation as regards each of the following branches of social security for which each of these Members has legislation applicable to seafarers in force: medical care, sickness benefit, unemployment benefit, employment injury benefits other than pensions and death grants, family benefit and maternity benefit. 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.

Article 28

The provisions of this Part do not apply to social and medical assistance.

Article 29

Members may derogate from the provisions of Articles 16 to 25 and Article 27 by making special arrangements in the framework of bilateral or multilateral instruments concluded amongst two or more of them, on condition that these do not affect the rights and obligations of other Members and provide for the protection of foreign or migrant seafarers in matters of social security under provisions which, in the aggregate, are at least as favourable as those required under these Articles.

PART V. LEGAL AND ADMINISTRATIVE SAFEGUARDS

Article 30

Every person concerned shall have a right of appeal in case of refusal of the benefit or complaint as to its nature, level, amount or quality.

Article 31

Where a government department responsible to a legislature is entrusted with the administration of medical care, every person concerned shall have a right, in addition to the right of appeal provided for in Article 30, to have a complaint concerning the refusal of medical care or the quality of the care received investigated by the appropriate authority.

Article 32

Each Member shall make provision for securing the rapid and inexpensive settlement of disputes concerning the shipowner's liability provided for in Articles 13 to 15.

Article 33

Members 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 34

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

Article 35

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 seafarers protected shall participate in the management under conditions prescribed by national legislation;
- (b) national legislation shall also, where appropriate, provide for the participation of representatives of the shipowners;
- (c) national legislation may also provide for the participation of representatives of the public authorities.

PART VI. FINAL PROVISIONS

Article 36

This Convention revises the Sickness Insurance (Sea) Convention, 1936, and the Social Security (Seafarers) Conventions, 1946.

Article 37

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

Article 38

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

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 of the International Labour Office.

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

Article 39

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories for whose international relations it is responsible in accordance with the provisions of the Constitution of the International Labour Organisation.

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 of the International Labour Office 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.

INTERNATIONAL LABOUR CONFERENCE

Convention 166

CONVENTION CONCERNING THE REPATRIATION OF SEAFARERS
(REVISED)

The General Conference of the International Labour Organisation,
Having been convened in Geneva by the Governing Body of the International Labour Office and having met at its Seventy-fourth Session on 24 September 1987, and

Noting that since the adoption of the Repatriation of Seamen Convention, 1926, and of the Repatriation (Ship Masters and Apprentices) Recommendation, 1926, developments in the shipping industry have made it necessary to revise the Convention to incorporate appropriate elements of the Recommendation, and

Noting further that considerable progress has been made through national legislation and practice in providing for the repatriation of seafarers in various matters not covered by the Repatriation of Seamen Convention, 1926, and

Considering that further action by means of a new international instrument as regards certain additional aspects of the repatriation of seafarers would accordingly be desirable taking into account the widespread growth in employment of non-national seafarers in the shipping industry, and

Having decided upon the adoption of certain proposals with regard to the Revision of the Repatriation of Seamen Convention, 1926 (No. 23), and of the Repatriation (Ship Masters and Apprentices) Recommendation, 1926 (No. 27), 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 ninth day of October of the year one thousand nine hundred and eighty-seven the following Convention which may be cited as the Repatriation of Seafarers Convention (Revised), 1987.

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to every seagoing ship whether publicly or privately owned which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation and to the owners and seafarers of such ships.

2. To the extent it deems practicable, after consultation with the representative organisations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as engaged in commercial maritime navigation or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the competent authority after consultation with the organisations of shipowners, seafarers and fishermen concerned.

4. For the purpose of this Convention the term "seafarer" means any person who is employed in any capacity on board a seagoing ship to which this Convention applies.

PART II. ENTITLEMENTS

Article 2

1. A seafarer shall be entitled to repatriation in the following circumstances:
- (a) if an engagement for a specific period or for a specific voyage expires abroad;
 - (b) upon the expiry of the period of notice given in accordance with the provisions of the articles of agreement or the seafarer's contract of employment;
 - (c) in the event of illness or injury or other medical condition which requires his or her repatriation when found medically fit to travel;
 - (d) in the event of shipwreck;
 - (e) in the event of the shipowner not being able to continue to fulfil his or her legal or contractual obligations as an employer of the seafarer by reason of bankruptcy, sale of ship, change of ship's registration or any other similar reason;
 - (f) in the event of a ship being bound for a war zone, as defined by national laws or regulations or collective agreements, to which the seafarer does not consent to go;
 - (g) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

2. National laws or regulations or collective agreements shall prescribe the maximum duration of service periods on board following which a seafarer is entitled to repatriation; such periods shall be less than 12 months. In determining the maximum periods, account shall be taken of factors affecting the seafarers' working environment. Each Member shall seek, wherever possible, to reduce these periods in the light of technological changes and developments and may be guided by any recommendations made on the matter by the Joint Maritime Commission.

PART III. DESTINATION

Article 3

1. Each Member for which this Convention is in force shall prescribe by national laws or regulations the destinations to which seafarers may be repatriated.

2. The destinations so prescribed shall include the place at which the seafarer agreed to enter into the engagement, the place stipulated by collective agreement, the seafarer's country of residence or such other place as may be mutually agreed at the time of engagement. The seafarer shall have the right to choose from among the prescribed destinations the place to which he or she is to be repatriated.

PART IV. ARRANGEMENTS FOR REPATRIATION

Article 4

1. It shall be the responsibility of the shipowner to arrange for repatriation by appropriate and expeditious means. The normal mode of transport shall be by air.

2. The cost of repatriation shall be borne by the shipowner.

3. Where repatriation has taken place as a result of a seafarer being found, in accordance with national laws or regulations or collective agreements, to be in serious default of his or her employment obligations, nothing in this Convention shall prejudice the right of recovery from the seafarer of repatriation costs or part thereof in accordance with national laws or regulations or collective agreements.

4. The cost to be borne by the shipowner shall include:

- (a) passage to the destination selected for repatriation in accordance with Article 3 above;
- (b) accommodation and food from the moment the seafarer leaves the ship until he or she reaches the repatriation destination;
- (c) pay and allowances from the moment he or she leaves the ship until he or she reaches the repatriation destination, if provided for by national laws or regulations or collective agreements;
- (d) transportation of 30 kg of the seafarer's personal luggage to the repatriation destination;
- (e) medical treatment when necessary until the seafarer is medically fit to travel to the repatriation destination.

5. The shipowner shall not require the seafarer to make an advance payment towards the cost of repatriation at the beginning of his or her employment, nor shall the shipowner recover the cost of repatriation from the seafarer's wages or other entitlements except as provided for in paragraph 3 above.

6. National laws or regulations shall not prejudice any right of the shipowner to recover the cost of repatriation of seafarers not employed by the shipowner from their employer.

Article 5

If a shipowner fails to make arrangements for or to meet the cost of repatriation of a seafarer who is entitled to be repatriated—

- (a) the competent authority of the Member in whose territory the ship is registered shall arrange for and meet the cost of the repatriation of the seafarer concerned; if it fails to do so, the State from which the seafarer is to be repatriated or the State of which he or she is a national may arrange for his or her repatriation and recover the cost from the Member in whose territory the ship is registered;
- (b) costs incurred in repatriating the seafarer shall be recoverable from the shipowner by the Member in whose territory the ship is registered;
- (c) the expenses of repatriation shall in no case be a charge upon the seafarer, except as provided for in paragraph 3 of Article 4 above.

PART V. OTHER ARRANGEMENTS

Article 6

Seafarers who are to be repatriated shall be able to obtain their passport and other identity documents for the purpose of repatriation.

Article 7

Time spent awaiting repatriation and repatriation travel time shall not be deducted from paid leave accrued to the seafarer.

Article 8

A seafarer shall be deemed to have been duly repatriated when he or she is landed at a destination prescribed pursuant to Article 3 above, or when the seafarer does not claim his or her entitlement to repatriation within a reasonable period of time to be defined by national laws or regulations or collective agreements.

Article 9

The provisions of this Convention in so far as they are not otherwise made effective by means of collective agreements or in such other manner as may be appropriate under national conditions shall be given effect by national laws or regulations.

Article 10

Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.

Article 11

The competent authority of each Member shall ensure by means of adequate supervision that the owners of ships registered in its territory comply with the provisions of the Convention, and shall provide relevant information to the International Labour Office.

Article 12

The text of this Convention shall be available in an appropriate language to the crew members of every ship which is registered in the territory of any Member for which it is in force.

PART VI. FINAL PROVISIONS

Article 13

This Convention revises the Repatriation of Seamen Convention, 1926.

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 of the International Labour Office.

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 of the International Labour Office.

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 of the International Labour Office 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.

Recommendation 174

**RECOMMENDATION CONCERNING THE REPATRIATION
OF SEAFARERS**

The General Conference of the International Labour Organisation,
Having been convened in Geneva by the Governing Body of the International
Labour Office and having met at its Seventy-fourth Session on 24 September
1987, and

Having decided upon the adoption of certain proposals with regard to the
revision of the Repatriation of Seamen Convention, 1926 (No. 23), and of
the Repatriation (Ship Masters and Apprentices) Recommendation, 1926
(No. 27), 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 supplementing the Repatriation of Seafarers Convention
(Revised), 1987,

adopts this ninth day of October of the year one thousand nine hundred and
eighty-seven the following Recommendation which may be cited as the Repatria-
tion of Seafarers Recommendation, 1987:

Whenever a seafarer is entitled to be repatriated pursuant to the provisions of
the Repatriation of Seafarers Convention (Revised), 1987, but both the shipowner
and the Member in whose territory the ship is registered fail to meet their
obligations under the Convention to arrange for and meet the cost of repatriation,
the State from which the seafarer is to be repatriated or the State of which he or
she is a national should arrange for his or her repatriation, and recover the cost
from the Member in whose territory the ship is registered in accordance with
Article 5 (a) of the Convention.

Convention 167

**CONVENTION CONCERNING SAFETY AND HEALTH
IN CONSTRUCTION**

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

Noting the relevant international labour Conventions and Recommendations
and, in particular, the Safety Provisions (Building) Convention and Recom-
mendation, 1937, the Co-operation in Accident Prevention (Building) Rec-
ommendation, 1937, the Radiation Protection Convention and Recommen-
dation, 1960, the Guarding of Machinery Convention and Recommen-
dation, 1963, the Maximum Weight Convention and Recommendation, 1967,
the Occupational Cancer Convention and Recommendation, 1974, the Working
Environment (Air Pollution, Noise and Vibration) Convention and Recommen-
dation, 1977, the Occupational Safety and Health Convention and Recommen-
dation, 1981, the Occupational Health Services Convention and Recommen-
dation, 1985, the Asbestos Convention and Recommendation, 1986, and the list of occupational diseases as revised in
1980 appended to the Employment Injury Benefits Convention, 1964, and

Having decided upon the adoption of certain proposals with regard to safety
and health in construction, 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 revising the Safety Provisions (Building) Convention, 1937,

adopts this twentieth day of June of the year one thousand nine hundred and
eighty-eight the following Convention, which may be cited as the Safety and
Health in Construction Convention, 1988:

I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all construction activities, namely building, civil
engineering, and erection and dismantling work, including any process, operation
or transport on a construction site, from the preparation of the site to the
completion of the project.

2. A Member ratifying this Convention may, after consultation with the most
representative organisations of employers and workers concerned, where they
exist, exclude from the application of the Convention, or certain provisions
thereof, particular branches of economic activity or particular undertakings in
respect of which special problems of a substantial nature arise, on condition that a
safe and healthy working environment is maintained.

3. This Convention also applies to such self-employed persons as may be
specified by national laws or regulations.

Article 2

For the purpose of this Convention:

- (a) The term "construction" covers:
- (i) building, including excavation and the construction, structural alteration, renovation, repair, maintenance (including cleaning and painting) and demolition of all types of buildings or structures;
 - (ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies;
 - (iii) the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;
- (b) the term "construction site" means any site at which any of the processes or operations described in subparagraph (a) above are carried on;
- (c) the term "workplace" means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in subparagraph (e) below;
- (d) the term "worker" means any person engaged in construction;
- (e) the term "employer" means:
- (i) any physical or legal person who employs one or more workers on a construction site; and
 - (ii) as the context requires, the principal contractor, the contractor or the subcontractor;
- (f) the term "competent person" means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them;
- (g) the term "scaffold" means any temporary structure, fixed, suspended or mobile, and its supporting components which is used for supporting workers and materials or to gain access to any such structure, and which is not a "lifting appliance" as defined in subparagraph (h) below;
- (h) the term "lifting appliance" means any stationary or mobile appliance used for raising or lowering persons or loads;
- (i) the term "lifting gear" means any gear or tackle by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load.

II. GENERAL PROVISIONS

Article 3

The most representative organisations of employers and workers concerned shall be consulted on the measures to be taken to give effect to the provisions of this Convention.

Article 4

Each Member which ratifies this Convention undertakes that it will, on the basis of an assessment of the safety and health hazards involved, adopt and maintain in force laws or regulations which ensure the application of the provisions of the Convention.

Article 5

1. The laws and regulations adopted in pursuance of Article 4 above may provide for their practical application through technical standards or codes of practice, or by other appropriate methods consistent with national conditions and practice.

2. In giving effect to Article 4 above and to paragraph 1 of this Article, each Member shall have due regard to the relevant standards adopted by recognised international organisations in the field of standardisation.

Article 6

Measures shall be taken to ensure that there is co-operation between employers and workers, in accordance with arrangements to be defined by national laws or regulations, in order to promote safety and health at construction sites.

Article 7

National laws or regulations shall require that employers and self-employed persons have a duty to comply with the prescribed safety and health measures at the workplace.

Article 8

1. Whenever two or more employers undertake activities simultaneously at one construction site—

- (a) the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, shall be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations, for ensuring compliance with such measures;
- (b) in so far as is compatible with national laws and regulations, where the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, is not present at the site, he shall nominate a competent person or body at the site with the authority and means necessary to ensure on his behalf co-ordination and compliance with the measures, as foreseen in subparagraph (a) above;
- (c) each employer shall remain responsible for the application of the prescribed measures in respect of the workers placed under his authority.

2. Whenever employers or self-employed persons undertake activities simultaneously at one construction site they shall have the duty to co-operate in the application of the prescribed safety and health measures, as may be specified by national laws or regulations.

Article 9

Those concerned with the design and planning of a construction project shall take into account the safety and health of the construction workers in accordance with national laws, regulations and practice.

Article 10

National laws or regulations shall provide that workers shall have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

Article 11

National laws or regulations shall provide that workers shall have the duty to-

- (a) co-operate as closely as possible with their employer in the application of the prescribed safety and health measures;
- (b) take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work;
- (c) use facilities placed at their disposal and not misuse anything provided for their own protection or the protection of others;
- (d) report forthwith to their immediate supervisor, and to the workers' safety representative where one exists, any situation which they believe could present a risk, and which they cannot properly deal with themselves;
- (e) comply with the prescribed safety and health measures.

Article 12

1. National laws or regulations shall provide that a worker shall have the right to remove himself from danger when he has good reason to believe that there is an imminent and serious danger to his safety or health, and the duty so to inform his supervisor immediately.

2. Where there is an imminent danger to the safety of workers the employer shall take immediate steps to stop the operation and evacuate workers as appropriate.

III. PREVENTIVE AND PROTECTIVE MEASURES

Article 13

SAFETY OF WORKPLACES

1. All appropriate precautions shall be taken to ensure that all workplaces are safe and without risk of injury to the safety and health of workers.

2. Safe means of access to and egress from all workplaces shall be provided and maintained, and indicated where appropriate.

3. All appropriate precautions shall be taken to protect persons present at or in the vicinity of a construction site from all risks which may arise from such site.

Article 14

SCAFFOLDS AND LADDERS

1. Where work cannot safely be done on or from the ground or from part of a building or other permanent structure, a safe and suitable scaffold shall be provided and maintained, or other equally safe and suitable provision shall be made.

2. In the absence of alternative safe means of access to elevated working places, suitable and sound ladders shall be provided. They shall be properly secured against inadvertent movement.

3. All scaffolds and ladders shall be constructed and used in accordance with national laws and regulations.

4. Scaffolds shall be inspected by a competent person in such cases and at such times as shall be prescribed by national laws or regulations.

Article 15

LIFTING APPLIANCES AND GEAR

1. Every lifting appliance and item of lifting gear, including their constituent elements, attachments, anchorages and supports, shall-

- (a) be of good design and construction, sound material and adequate strength for the purpose for which they are used;
- (b) be properly installed and used;
- (c) be maintained in good working order;
- (d) be examined and tested by a competent person at such times and in such cases as shall be prescribed by national laws or regulations; the results of these examinations and tests shall be recorded;
- (e) be operated by workers who have received appropriate training in accordance with national laws and regulations.

2. No person shall be raised, lowered or carried by a lifting appliance unless it is constructed, installed and used for that purpose in accordance with national laws and regulations, except in an emergency situation in which serious personal injury or fatality may occur, and for which the lifting appliance can be safely used.

Article 16

TRANSPORT, EARTH-MOVING AND MATERIALS-HANDLING EQUIPMENT

1. All vehicles and earth-moving or materials-handling equipment shall-

- (a) be of good design and construction taking into account as far as possible ergonomic principles;
- (b) be maintained in good working order;
- (c) be properly used;
- (d) be operated by workers who have received appropriate training in accordance with national laws and regulations.

2. On all construction sites on which vehicles, earth-moving or materials-handling equipment are used—

- (a) safe and suitable access ways shall be provided for them; and
- (b) traffic shall be so organised and controlled as to secure their safe operation.

Article 17

PLANT, MACHINERY, EQUIPMENT AND HAND TOOLS

1. Plant, machinery and equipment, including hand tools, both manual and power driven, shall—

- (a) be of good design and construction, taking into account as far as possible ergonomic principles;
- (b) be maintained in good working order;
- (c) be used only for work for which they have been designed unless a use outside the initial design purposes has been assessed by a competent person who has concluded that such use is safe;
- (d) be operated by workers who have received appropriate training.

2. Adequate instructions for safe use shall be provided where appropriate by the manufacturer or the employer, in a form understood by the users.

3. Pressure plant and equipment shall be examined and tested by a competent person in cases and at times prescribed by national laws or regulations.

Article 18

WORK AT HEIGHTS INCLUDING ROOFWORK

1. Where necessary to guard against danger, or where the height of a structure or its slope exceeds that prescribed by national laws or regulations, preventive measures shall be taken against the fall of workers and tools or other objects or materials.

2. Where workers are required to work on or near roofs or other places covered with fragile material, through which they are liable to fall, preventive measures shall be taken against their inadvertently stepping on or falling through the fragile material.

Article 19

EXCAVATIONS, SHAFTS, EARTHWORKS, UNDERGROUND WORKS AND TUNNELS

Adequate precautions shall be taken in any excavation, shaft, earthworks, underground works or tunnel—

- (a) by suitable shoring or otherwise to guard against danger to workers from a fall or dislodgement of earth, rock or other material;
- (b) to guard against dangers arising from the fall of persons, materials or objects or the inrush of water into the excavation, shaft, earthworks, underground works or tunnel;

- (c) to secure adequate ventilation at every workplace so as to maintain an atmosphere fit for respiration and to limit any fumes, gases, vapours, dust or other impurities to levels which are not dangerous or injurious to health and are within limits laid down by national laws or regulations;
- (d) to enable the workers to reach safety in the event of fire, or an inrush of water or material;
- (e) to avoid risk to workers arising from possible underground dangers such as the circulation of fluids or the presence of pockets of gas, by undertaking appropriate investigations to locate them.

Article 20

COFFERDAMS AND CAISSONS

1. Every cofferdam and caisson shall be—

- (a) of good construction and suitable and sound material and of adequate strength;
- (b) provided with adequate means for workers to reach safety in the event of an inrush of water or material.

2. The construction, positioning, modification or dismantling of a cofferdam or caisson shall take place only under the immediate supervision of a competent person.

3. Every cofferdam and caisson shall be inspected by a competent person at prescribed intervals.

Article 21

WORK IN COMPRESSED AIR

1. Work in compressed air shall be carried out only in accordance with measures prescribed by national laws or regulations.

2. Work in compressed air shall be carried out only by workers whose physical aptitude for such work has been established by a medical examination and when a competent person is present to supervise the conduct of the operations.

Article 22

STRUCTURAL FRAMES AND FORMWORK

1. The erection of structural frames and components, formwork, falsework and shoring shall be carried out only under the supervision of a competent person.

2. Adequate precautions shall be taken to guard against danger to workers arising from any temporary state of weakness or instability of a structure.

3. Formwork, falsework and shoring shall be so designed, constructed and maintained that it will safely support all loads that may be imposed on it.

Article 23

WORK OVER WATER

Where work is done over or in close proximity to water there shall be adequate provision for—

- (a) preventing workers from falling into water;
- (b) the rescue of workers in danger of drowning;
- (c) safe and sufficient transport.

Article 24

DEMOLITION

When the demolition of any building or structure might present danger to workers or to the public—

- (a) appropriate precautions, methods and procedures shall be adopted, including those for the disposal of waste or residues, in accordance with national laws or regulations;
- (b) the work shall be planned and undertaken only under the supervision of a competent person.

Article 25

LIGHTING

Adequate and suitable lighting, including portable lighting where appropriate, shall be provided at every workplace and any other place on the construction site where a worker may have to pass.

Article 26

ELECTRICITY

1. All electrical equipment and installations shall be constructed, installed and maintained by a competent person, and so used as to guard against danger.

2. Before construction is commenced and during the progress thereof adequate steps shall be taken to ascertain the presence of and to guard against danger to workers from any live electrical cable or apparatus which is under, over or on the site.

3. The laying and maintenance of electrical cables and apparatus on construction sites shall be governed by the technical rules and standards applied at the national level.

Article 27

EXPLOSIVES

Explosives shall not be stored, transported, handled or used except—

- (a) under conditions prescribed by national laws or regulations; and

- (b) by a competent person, who shall take such steps as are necessary to ensure that workers and other persons are not exposed to risk of injury.

Article 28

HEALTH HAZARDS

1. Where a worker is liable to be exposed to any chemical, physical or biological hazard to such an extent as is liable to be dangerous to health, appropriate preventive measures shall be taken against such exposure.

2. The preventive measures referred to in paragraph 1 above shall comprise—
(a) the replacement of hazardous substances by harmless or less hazardous substances wherever possible; or

(b) technical measures applied to the plant, machinery, equipment or process; or
(c) where it is not possible to comply with subparagraphs (a) or (b) above, other effective measures, including the use of personal protective equipment and protective clothing.

3. Where workers are required to enter any area in which a toxic or harmful substance may be present, or in which there may be an oxygen deficiency, or a flammable atmosphere, adequate measures shall be taken to guard against danger.

4. Waste shall not be destroyed or otherwise disposed of on a construction site in a manner which is liable to be injurious to health.

Article 29

FIRE PRECAUTIONS

1. The employer shall take all appropriate measures to—

- (a) avoid the risk of fire;
- (b) combat quickly and efficiently any outbreak of fire;
- (c) bring about a quick and safe evacuation of persons.

2. Sufficient and suitable storage shall be provided for flammable liquids, solids and gases.

Article 30

PERSONAL PROTECTIVE EQUIPMENT AND PROTECTIVE CLOTHING

1. Where adequate protection against risk of accident or injury to health, including exposure to adverse conditions, cannot be ensured by other means, suitable personal protective equipment and protective clothing, having regard to the type of work and risks, shall be provided and maintained by the employer, without cost to the workers, as may be prescribed by national laws or regulations.

2. The employer shall provide the workers with the appropriate means to enable them to use the individual protective equipment, and shall ensure its proper use.

3. Protective equipment and protective clothing shall comply with standards set by the competent authority taking into account as far as possible ergonomic principles.

4. Workers shall be required to make proper use of and to take good care of the personal protective equipment and protective clothing provided for their use.

Article 31

FIRST AID

The employer shall be responsible for ensuring that first aid, including trained personnel, is available at all times. Arrangements shall be made for ensuring the removal for medical attention of workers who have suffered an accident or sudden illness.

Article 32

WELFARE

1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water shall be provided.

2. At or within reasonable access of every construction site, the following facilities shall, depending on the number of workers and the duration of the work, be provided and maintained—

- (a) sanitary and washing facilities;
- (b) facilities for changing and for the storage and drying of clothing;
- (c) accommodation for taking meals and for taking shelter during interruption of work due to adverse weather conditions.

3. Men and women workers should be provided with separate sanitary and washing facilities.

Article 33

INFORMATION AND TRAINING

Workers shall be adequately and suitably—

- (a) informed of potential safety and health hazards to which they may be exposed at their workplace;
- (b) instructed and trained in the measures available for the prevention and control of, and protection against, those hazards.

Article 34

REPORTING OF ACCIDENTS AND DISEASES

National laws or regulations shall provide for the reporting to the competent authority within a prescribed time of occupational accidents and diseases.

IV. IMPLEMENTATION

Article 35

Each Member shall—

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention;
- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their task, or satisfy itself that appropriate inspection is carried out.

V. FINAL PROVISIONS

Article 36

This Convention revises the Safety Provisions (Building) Convention, 1937.

Article 37

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

Article 38

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 39

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 40

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 41

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 42

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 43

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 39 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 44

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

Recommendation 175

**RECOMMENDATION CONCERNING SAFETY AND HEALTH
IN CONSTRUCTION**

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

Noting the relevant international labour Conventions and Recommendations and, in particular, the Safety Provisions (Building) Convention and Recommendation, 1937, the Co-operation in Accident Prevention (Building) Recommendation, 1937, the Radiation Protection Convention and Recommendation, 1960, the Guarding of Machinery Convention and Recommendation, 1963, the Maximum Weight Convention and Recommendation, 1967, the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1985, the Asbestos Convention and Recommendation, 1986, and the list of occupational diseases as revised in 1980 appended to the Employment Injuries Benefits Convention, 1964,
and

Having decided upon the adoption of certain proposals with regard to safety and health in construction, 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 Safety and Health in Construction Convention,
adopts this twentieth day of June of the year one thousand nine hundred and eighty-eight the following Recommendation, which may be cited as the Safety and Health in Construction Recommendation, 1988:

I. SCOPE AND DEFINITIONS

1. The provisions of the Safety and Health in Construction Convention, 1988 (hereinafter referred to as "the Convention") and of this Recommendation should be applied in particular to:

- (a) building, civil engineering and the erection and dismantling of prefabricated buildings and structures, as defined in Article 2(a) of the Convention;
- (b) the fabrication and erection of oil rigs, and of offshore installations while under construction on shore.

2. For the purposes of this Recommendation—

(a) the term "construction" covers:

- (i) building, including excavation and the construction, structural alteration, renovation, repair, maintenance (including cleaning and painting) and demolition of all types of buildings or structures;

- (ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies;
 - (iii) the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;
- (b) the term "construction site" means any site at which any of the processes or operations described in clause (a) above are carried on;
 - (c) the term "workplace" means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in clause (f) below;
 - (d) the term "worker" means any person engaged in construction;
 - (e) the term "workers' representatives" means persons who are recognised as such under national law or practice;
 - (f) the term "employer" means:
 - (i) any physical or legal person who employs one or more workers on a construction site; and
 - (ii) as the context requires, the principal contractor, the contractor or the subcontractor;
 - (g) the term "competent person" means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them;
 - (h) the term "scaffold" means any temporary structure, fixed, suspended or mobile, and its supporting components which is used for supporting workers and materials or to gain access to any such structure, and which is not a "lifting appliance" as defined in clause (i) below;
 - (i) the term "lifting appliance" means any stationary or mobile appliance used for raising or lowering persons or loads;
 - (j) the term "lifting gear" means any gear or tackle by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load.

3. The provisions of this Recommendation should also apply to such self-employed persons as may be specified by national laws or regulations.

II. GENERAL PROVISIONS

4. National laws or regulations should require that employers and self-employed persons have a general duty to provide a safe and healthy workplace and to comply with the prescribed safety and health measures.

5. (1) Whenever two or more employers undertake activities at one construction site, they should have the duty to co-operate with one another as well as with any other persons participating in the construction work being undertaken, includ-

ing the owner or his representative, in order to comply with the prescribed safety and health measures.

(2) Ultimate responsibility for the co-ordination of safety and health measures on the construction site should rest with the principal contractor or such other person as is primarily responsible for the execution of the work.

6. The measures to be taken to ensure that there is organised co-operation between employers and workers to promote safety and health at construction sites should be prescribed by national laws or regulations or by the competent authority. Such measures should include-

- (a) the establishment of safety and health committees representative of employers and workers with such powers and duties as may be prescribed;
- (b) the election or appointment of workers' safety delegates with such powers and duties as may be prescribed;
- (c) the appointment by the employer of suitably qualified and experienced persons to promote safety and health;
- (d) the training of safety delegates and safety committee members.

7. Those concerned with the design and planning of a construction project should take into account the safety and health of the construction workers in accordance with national laws, regulations and practice.

8. The design of construction equipment, tools, protective equipment and other similar equipment should take account of ergonomic principles.

III. PREVENTIVE AND PROTECTIVE MEASURES

9. Construction work should be planned, prepared and undertaken in such a way that-

- (a) risks liable to arise at the workplace are prevented as soon as possible;
- (b) excessively or unnecessarily strenuous work positions and movements are avoided;
- (c) organisation of work takes into account the safety and health of workers;
- (d) materials and products are used which are suitable from a safety and health point of view;
- (e) working methods are employed which protect workers against the harmful effects of chemical, physical and biological agents.

10. National laws or regulations should provide for the notification to the competent authority of construction sites of such size, duration or characteristics as may be prescribed.

11. Workers should have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

SAFETY OF WORKPLACES

12. Housekeeping programmes should be established and implemented on construction sites which should include provision for-

- (a) the proper storage of materials and equipment;
- (b) the removal of waste and debris at appropriate intervals.

13. Where workers cannot be protected against falls from heights by any other means—

- (a) adequate safety nets or safety sheets should be erected and maintained; or
- (b) adequate safety harnesses should be provided and used.

14. The employer should provide the workers with the appropriate means to enable them to use individual protective equipment and should ensure its proper use. Protective equipment and protective clothing should comply with standards set by the competent authority, taking into account as far as possible ergonomic principles.

15. (1) The safety of construction machinery and equipment should be examined and tested by type or individually, as appropriate, by a competent person.

(2) National laws and regulations should take into consideration the fact that occupational diseases may be caused by machinery, apparatus and systems which do not take account of ergonomic principles in their design.

SCAFFOLDS

16. Every scaffold and part thereof should be of suitable and sound material and of adequate size and strength for the purpose for which it is used and be maintained in a proper condition.

17. Every scaffold should be properly designed, erected and maintained so as to prevent collapse or accidental displacement when properly used.

18. The working platforms, gangways and stairways of scaffolds should be of such dimensions and so constructed and guarded as to protect persons against falling or being endangered by falling objects.

19. No scaffold should be overloaded or otherwise misused.

20. A scaffold should not be erected, substantially altered or dismantled except by or under the supervision of a competent person.

21. Scaffolds as prescribed by national laws or regulations should be inspected, and the results recorded, by a competent person—

- (a) before being taken into use;
- (b) at periodic intervals thereafter;
- (c) after any alteration, interruption in use, exposure to weather or seismic conditions or any other occurrence likely to have affected their strength or stability.

LIFTING APPLIANCES AND LIFTING GEAR

22. National laws or regulations should prescribe the lifting appliances and items of lifting gear which should be examined and tested by a competent person—

- (a) before being taken into use for the first time;
- (b) after erection on a site;
- (c) subsequently at intervals prescribed by such national laws or regulations;
- (d) after any substantial alteration or repair.

23. The results of the examinations and tests of lifting appliances and items of lifting gear carried out in pursuance of Paragraph 22 above should be recorded and, as required, made available to the competent authority and to employers and workers or their representatives.

24. Every lifting appliance having a single safe working load and every item of lifting gear should be clearly marked with its maximum safe working load.

25. Every lifting appliance having a variable safe working load should be fitted with effective means to indicate clearly to the driver each maximum safe working load and the conditions under which it is applicable.

26. A lifting appliance or item of lifting gear should not be loaded beyond its safe working load or loads, except for testing purposes as specified by and under the direction of a competent person.

27. Every lifting appliance and every item of lifting gear should be properly installed so as, inter alia, to provide safe clearance between any moving part and fixed objects, and to ensure the stability of the appliance.

28. Where necessary to guard against danger, no lifting appliance should be used without the provision of suitable signalling arrangements or devices.

29. The drivers and operators of such lifting appliances as are prescribed by national laws or regulations should be—

- (a) of a prescribed minimum age;
- (b) properly trained and qualified.

TRANSPORT, EARTH-MOVING AND MATERIALS-HANDLING EQUIPMENT

30. The drivers and operators of vehicles and of earth-moving or materials-handling equipment should be persons trained and tested as required by national laws or regulations.

31. Adequate signalling or other control arrangements or devices should be provided to guard against danger from the movement of vehicles and earth-moving or materials-handling equipment. Special safety precautions should be taken for vehicles and equipment when manoeuvring backwards.

32. Preventive measures should be taken to avoid the fall of vehicles and earth-moving and materials-handling equipment into excavations or into water.

33. Where appropriate, earth-moving and materials-handling equipment should be fitted with structures designed to protect the operator from being crushed should the machine overturn, and from falling material.

34. Shoring or other support for any part of an excavation, shaft, earthworks, underground works or tunnel should not be erected, altered or dismantled except under the supervision of a competent person.

35. (1) Every part of an excavation, shaft, earthworks, underground works and tunnel where persons are employed should be inspected by a competent person at the times and in the cases prescribed by national laws or regulations, and the results recorded.

(2) Work should not be commenced therein until after such an inspection.

WORK IN COMPRESSED AIR

36. The measures regarding work in compressed air prescribed pursuant to Article 21 of the Convention should include provisions regulating the conditions in which the work is to be carried out, the plant and equipment to be used, the medical supervision and control of workers and the duration of work in compressed air.

37. A person should only be allowed to work in a caisson if it has been inspected by a competent person within such preceding period as is prescribed by national laws or regulations; the results of the inspection should be recorded.

PILE DRIVING

38. All pile-driving equipment should be of good design and construction taking into account as far as possible ergonomic principles, and properly maintained.

39. Pile driving should be carried out only under the supervision of a competent person.

WORK OVER WATER

40. The provisions regarding work over water prescribed in pursuance of Article 23 of the Convention should include, where appropriate, the provision and use of suitable and adequate—

- (a) fencing, safety nets and safety harnesses;
- (b) life vests, life preservers, manned boats (motor driven if necessary) and lifebuoys;
- (c) protection against such hazards as reptiles and other animals.

HEALTH HAZARDS

41. (1) An information system should be set up by the competent authority, using the results of international scientific research, to provide information for architects, contractors, employers and workers' representatives on the health risks associated with hazardous substances used in the construction industry.

(2) Manufacturers and dealers in products used in the construction industry should provide with the products information on any health risks associated with them and on the precautions to be taken.

(3) In the use of materials that contain hazardous substances and in the removal and disposal of waste, the health of workers and of the public and the preservation of the environment should be safeguarded as prescribed by national laws and regulations.

(4) Dangerous substances should be clearly marked and provided with a label giving their relevant characteristics and instructions on their use. They should be handled under conditions prescribed by national laws and regulations or by the competent authority.

(5) The competent authority should determine which hazardous substances should be prohibited from use in the construction industry.

42. The competent authority should keep records of monitoring of the working environment and assessment of workers' health for a period prescribed by national laws and regulations.

43. The manual lifting of excessive weights which presents a safety and health risk to workers should be avoided by reducing the weight, by the use of mechanical devices or by other means.

44. Whenever new products, equipment and working methods are introduced, special attention should be paid to informing and training workers with respect to their implications for safety and health.

DANGEROUS ATMOSPHERES

45. The measures regarding dangerous atmospheres prescribed pursuant to Article 28, paragraph 3, of the Convention should include prior written authority or permission from a competent person, or any other system by which entry into any area in which a dangerous atmosphere may be present can be effected only after completing specified procedures.

FIRE PRECAUTIONS

46. Where necessary to guard against danger, workers should be suitably trained in the action to be taken in the event of fire, including the use of means of escape.

47. Where appropriate suitable visual signs should be provided to indicate clearly the directions of escape in case of fire.

RADIATION HAZARDS

48. Stringent safety regulations should be drawn up and enforced by the competent authority with respect to construction workers engaged in the maintenance, renovation, demolition or dismantling of any buildings in which there is a risk of exposure to ionising radiations, in particular in the nuclear power industry.

49. The manner in which first-aid facilities and personnel are to be provided in pursuance of Article 31 of the Convention should be prescribed by national laws or regulations drawn up after consulting the competent health authority and the most representative organisations of employers and workers concerned.

50. Where the work involves risk of drowning, asphyxiation or electric shock, first-aid personnel should be proficient in the use of resuscitation and other life-saving techniques and in rescue procedures.

WELFARE

51. In appropriate cases, depending on the number of workers, the duration of the work and its location, adequate facilities for obtaining or preparing food and drink at or near a construction site should be provided, if they are not otherwise available.

52. Suitable living accommodation should be made available for the workers at construction sites which are remote from their homes, where adequate transportation between the site and their homes or other suitable living accommodation is not available. Men and women workers should be provided with separate sanitary, washing and sleeping facilities.

IV. EFFECT ON EARLIER RECOMMENDATIONS

53. This Recommendation supersedes the Safety Provisions (Building) Recommendation, 1937, and the Co-operation in Accident Prevention (Building) Recommendation, 1937.

Convention 168**CONVENTION CONCERNING EMPLOYMENT PROMOTION AND PROTECTION AGAINST UNEMPLOYMENT**

- 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 method 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 employment 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.

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.

Recommendation 176

**RECOMMENDATION CONCERNING EMPLOYMENT PROMOTION
AND PROTECTION AGAINST UNEMPLOYMENT**

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 employ-
ment 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 Recommenda-
tion 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 Employ-
ment 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.

Convention 169

CONVENTION CONCERNING INDIGENOUS AND TRIBAL PEOPLES IN INDEPENDENT COUNTRIES

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 76th Session on 7 June 1989, and

Noting the international standards contained in the Indigenous and Tribal Populations Convention and Recommendation, 1957, and

Recalling the terms of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the many international instruments on the prevention of discrimination, and

Considering that the developments which have taken place in international law since 1957, as well as developments in the situation of indigenous and tribal peoples in all regions of the world, have made it appropriate to adopt new international standards on the subject with a view to removing the assimilationist orientation of the earlier standards, and

Recognising the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live, and

Noting that in many parts of the world these peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live, and that their laws, values, customs and perspectives have often been eroded, and

Calling attention to the distinctive contributions of indigenous and tribal peoples to the cultural diversity and social and ecological harmony of humankind and to international co-operation and understanding, and

Noting that the following provisions have been framed with the co-operation of the United Nations, the Food and Agriculture Organisation of the United Nations, the United Nations Educational, Scientific and Cultural Organisation and the World Health Organisation, as well as of the Inter-American Indian Institute, at appropriate levels and in their respective fields, and that it is proposed to continue this co-operation in promoting and securing the application of these provisions, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), 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 revising the Indigenous and Tribal Populations Convention, 1957;

adopts this twenty-seventh day of June of the year one thousand nine hundred and eighty-nine the following Convention, which may be cited as the Indigenous and Tribal Peoples Convention, 1989:

PART I. GENERAL POLICY

Article 1

1. This Convention applies to:

- (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
- (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3. The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

Article 2

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

2. Such action shall include measures for:

- (a) ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;
- (b) promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;
- (c) assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.

Article 3

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.

2. No form of force or coercion shall be used in violation of the human rights and fundamental freedoms of the peoples concerned, including the rights contained in this Convention.

Article 4

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.

3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.

Article 5

In applying the provisions of this Convention:

- (a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;
- (b) the integrity of the values, practices and institutions of these peoples shall be respected;
- (c) policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.

Article 6

1. In applying the provisions of this Convention, governments shall:

- (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
- (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;
- (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 7

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.

3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The

results of these studies shall be considered as fundamental criteria for the implementation of these activities.

4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

Article 8

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.

2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.

3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.

Article 9

1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected.

2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases.

Article 10

1. In imposing penalties laid down by general law on members of these peoples account shall be taken of their economic, social and cultural characteristics.

2. Preference shall be given to methods of punishment other than confinement in prison.

Article 11

The exaction from members of the peoples concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law, except in cases prescribed by law for all citizens.

Article 12

The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means.

PART II. LAND

Article 13

1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples

concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

Article 14

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

Article 15

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Article 16

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.

3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to

that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

Article 17

1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected.

2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community.

3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.

Article 18

Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences.

Article 19

National agrarian programmes shall secure to the peoples concerned treatment equivalent to that accorded to other sectors of the population with regard to:

- (a) the provision of more land for these peoples when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers;
- (b) the provision of the means required to promote the development of the lands which these peoples already possess.

PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT

Article 20

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

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

- (a) admission to employment, including skilled employment, as well as measures for promotion and advancement;
- (b) equal remuneration for work of equal value;
- (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing;

(d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.

3. The measures taken shall include measures to ensure:

- (a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them;
- (b) that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances;
- (c) that workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude;
- (d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

4. Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage employment, in order to ensure compliance with the provisions of this Part of this Convention.

PART IV. VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES

Article 21

Members of the peoples concerned shall enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.

Article 22

1. Measures shall be taken to promote the voluntary participation of members of the peoples concerned in vocational training programmes of general application.

2. Whenever existing programmes of vocational training of general application do not meet the special needs of the peoples concerned, governments shall, with the participation of these peoples, ensure the provision of special training programmes and facilities.

3. Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the peoples concerned. Any studies made in this connection shall be carried out in co-operation with these peoples, who shall be consulted on the organisation and operation of such programmes. Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide.

Article 23

1. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the

maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted.

2. Upon the request of the peoples concerned, appropriate technical and financial assistance shall be provided wherever possible, taking into account the traditional technologies and cultural characteristics of these peoples, as well as the importance of sustainable and equitable development.

PART V. SOCIAL SECURITY AND HEALTH

Article 24

Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them.

Article 25

1. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health.

2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines.

3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services.

4. The provision of such health services shall be co-ordinated with other social, economic and cultural measures in the country.

PART VI. EDUCATION AND MEANS OF COMMUNICATION

Article 26

Measures shall be taken to ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community.

Article 27

1. Education programmes and services for the peoples concerned shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations.

2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate.

3. In addition, governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.

Article 28

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective.

2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country.

3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.

Article 29

The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education for these peoples.

Article 30

1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.

2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.

Article 31

Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples.

PART VII. CONTACTS AND CO-OPERATION ACROSS BORDERS

Article 32

Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

Article 33

1. The governmental authority responsible for the matters covered in this Convention shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfilment of the functions assigned to them.

2. These programmes shall include:

- (a) the planning, co-ordination, execution and evaluation, in co-operation with the peoples concerned, of the measures provided for in this Convention;
- (b) the proposing of legislative and other measures to the competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned.

PART IX. GENERAL PROVISIONS

Article 34

The nature and scope of the measures to be taken to give effect to this Convention shall be determined in a flexible manner, having regard to the conditions characteristic of each country.

Article 35

The application of the provisions of this Convention shall not adversely affect rights and benefits of the peoples concerned pursuant to other Conventions and Recommendations, international instruments, treaties, or national laws, awards, custom or agreements.

PART X. FINAL PROVISIONS

Article 36

This Convention revises the Indigenous and Tribal Populations Convention, 1957.

Article 37

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

Article 38

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 39

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 40

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 41

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 42

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 43

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 39 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 44

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

Convention 170

**CONVENTION CONCERNING SAFETY IN THE USE OF CHEMICALS
AT WORK**

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its 77th Session on 6 June 1990, and
Noting the relevant international labour Conventions and Recommendations
and, in particular, the Benzene Convention and Recommendation, 1971, the
Occupational Cancer Convention and Recommendation, 1974, the Working
Environment (Air Pollution, Noise and Vibration) Convention and
Recommendation, 1977, the Occupational Safety and Health Convention
and Recommendation, 1981, the Occupational Health Services Convention
and Recommendation, 1985, the Asbestos Convention and Recommendation,
1986, and the list of occupational diseases, as amended in 1980,
appended to the Employment Injury Benefits Convention, 1964, and

Noting that the protection of workers from the harmful effects of chemicals also
enhances the protection of the general public and the environment, and

Noting that workers have a need for, and right to, information about the
chemicals they use at work, and

Considering that it is essential to prevent or reduce the incidence of
chemically induced illnesses and injuries at work by:

- (a) ensuring that all chemicals are evaluated to determine their hazards;
- (b) providing employers with a mechanism to obtain from suppliers
information about the chemicals used at work so that they can implement
effective programmes to protect workers from chemical hazards;
- (c) providing workers with information about the chemicals at their
workplaces, and about appropriate preventive measures so that they can
effectively participate in protective programmes;
- (d) establishing principles for such programmes to ensure that chemicals are
used safely; and

Having regard to the need for co-operation within the International
Programme on Chemical Safety between the International Labour
Organisation, the United Nations Environment Programme and the World
Health Organisation as well as with the Food and Agriculture Organisation
of the United Nations and the United Nations Industrial Development
Organisation, and noting the relevant instruments, codes and guide-lines
promulgated by these organisations, and

Having decided upon the adoption of certain proposals with regard to safety in
the use of chemicals at work, 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
ninety the following Convention, which may be cited as the Chemicals Convention,
1990:

Article 1

1. This Convention applies to all branches of economic activity in which chemicals are used.

2. The competent authority of a Member ratifying this Convention, after consulting the most representative organisations of employers and workers concerned, and on the basis of an assessment of the hazards involved and the protective measures to be applied:

- (a) may exclude particular branches of economic activity, undertakings or products from the application of the Convention, or certain provisions thereof, when:
 - (i) special problems of a substantial nature arise; and
 - (ii) the overall protection afforded in pursuance of national law and practice is not inferior to that which would result from the full application of the provisions of the Convention;
- (b) shall make special provision to protect confidential information whose disclosure to a competitor would be liable to cause harm to an employer's business so long as the safety and health of workers are not compromised thereby.

3. This Convention does not apply to articles which will not expose workers to a hazardous chemical under normal or reasonably foreseeable conditions of use.

4. This Convention does not apply to organisms, but does apply to chemicals derived from organisms.

Article 2

For the purposes of this Convention:

- (a) the term "chemicals" means chemical elements and compounds, and mixtures thereof, whether natural or synthetic;
- (b) the term "hazardous chemical" includes any chemical which has been classified as hazardous in accordance with Article 6 or for which relevant information exists to indicate that the chemical is hazardous;
- (c) the term "use of chemicals at work" means any work activity which may expose a worker to a chemical, including:
 - (i) the production of chemicals;
 - (ii) the handling of chemicals;
 - (iii) the storage of chemicals;
 - (iv) the transport of chemicals;
 - (v) the disposal and treatment of waste chemicals;
 - (vi) the release of chemicals resulting from work activities;
 - (vii) the maintenance, repair and cleaning of equipment and containers for chemicals;
- (d) the term "branches of economic activity" means all branches in which workers are employed, including the public service;
- (e) the term "article" means an object which is formed to a specific shape or design during its manufacture or which is in its natural shape, and whose use in that form is dependent in whole or in part on its shape or design;
- (f) the term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

Article 3

The most representative organisations of employers and workers concerned shall be consulted on the measures to be taken to give effect to the provisions of this Convention.

Article 4

In the light of national conditions and practice and in consultation with the most representative organisations of employers and workers, each Member shall formulate, implement and periodically review a coherent policy on safety in the use of chemicals at work.

Article 5

The competent authority shall have the power, if justified on safety and health grounds, to prohibit or restrict the use of certain hazardous chemicals, or to require advance notification and authorisation before such chemicals are used.

Article 6

CLASSIFICATION SYSTEMS

1. Systems and specific criteria appropriate for the classification of all chemicals according to the type and degree of their intrinsic health and physical hazards and for assessing the relevance of the information required to determine whether a chemical is hazardous shall be established by the competent authority, or by a body approved or recognised by the competent authority, in accordance with national or international standards.

2. The hazardous properties of mixtures composed of two or more chemicals may be determined by assessments based on the intrinsic hazards of their component chemicals.

3. In the case of transport, such systems and criteria shall take into account the United Nations Recommendations on the transport of dangerous goods.

4. The classification systems and their application shall be progressively extended.

Article 7

LABELLING AND MARKING

1. All chemicals shall be marked so as to indicate their identity.

2. Hazardous chemicals shall in addition be labelled, in a way easily understandable to the workers, so as to provide essential information regarding their classification, the hazards they present and the safety precautions to be observed.

3.(1) Requirements for marking or labelling chemicals pursuant to paragraphs 1 and 2 of this Article shall be established by the competent authority, or by a body approved or recognised by the competent authority, in accordance with national or international standards.

(2) In the case of transport, such requirements shall take into account the United Nations Recommendations on the transport of dangerous goods.

Article 8

CHEMICAL SAFETY DATA SHEETS

1. For hazardous chemicals, chemical safety data sheets containing detailed essential information regarding their identity, supplier, classification, hazards, safety precautions and emergency procedures shall be provided to employers.

2. Criteria for the preparation of chemical safety data sheets shall be established by the competent authority, or by a body approved or recognised by the competent authority, in accordance with national or international standards.

3. The chemical or common name used to identify the chemical on the chemical safety data sheet shall be the same as that used on the label.

Article 9

RESPONSIBILITIES OF SUPPLIERS

1. Suppliers of chemicals, whether manufacturers, importers or distributors, shall ensure that:

- (a) such chemicals have been classified in accordance with Article 6 on the basis of knowledge of their properties and a search of available information or assessed in accordance with paragraph 3 below;
- (b) such chemicals are marked so as to indicate their identity in accordance with Article 7, paragraph 1;
- (c) hazardous chemicals they supply are labelled in accordance with Article 7, paragraph 2;
- (d) chemical safety data sheets are prepared for such hazardous chemicals in accordance with Article 8, paragraph 1, and provided to employers.

2. Suppliers of hazardous chemicals shall ensure that revised labels and chemical safety data sheets are prepared and provided to employers, by a method which accords with national law and practice, whenever new relevant safety and health information becomes available.

3. Suppliers of chemicals which have not yet been classified in accordance with Article 6 shall identify the chemicals they supply and assess the properties of these chemicals on the basis of a search of available information in order to determine whether they are hazardous chemicals.

PART IV. RESPONSIBILITIES OF EMPLOYERS

Article 10

IDENTIFICATION

1. Employers shall ensure that all chemicals used at work are labelled or marked as required by Article 7 and that chemical safety data sheets have been provided as required by Article 8 and are made available to workers and their representatives.

2. Employers receiving chemicals that have not been labelled or marked as required under Article 7, or for which chemical safety data sheets have not been provided as required under Article 8, shall obtain the relevant information from the supplier or from other reasonably available sources, and shall not use the chemicals until such information is obtained.

3. Employers shall ensure that only chemicals which are classified in accordance with Article 6 or identified and assessed in accordance with Article 9, paragraph 3, and labelled or marked in accordance with Article 7 are used and that any necessary precautions are taken when they are used.

4. Employers shall maintain a record of hazardous chemicals used at the workplace, cross-referenced to the appropriate chemical safety data sheets. This record shall be accessible to all workers concerned and their representatives.

Article 11

TRANSFER OF CHEMICALS

Employers shall ensure that when chemicals are transferred into other containers or equipment, the contents are indicated in a manner which will make known to workers their identity, any hazards associated with their use and any safety precautions to be observed.

Article 12

EXPOSURE

Employers shall:

- (a) ensure that workers are not exposed to chemicals to an extent which exceeds exposure limits or other exposure criteria for the evaluation and control of the working environment established by the competent authority, or by a body approved or recognised by the competent authority, in accordance with national or international standards;
- (b) assess the exposure of workers to hazardous chemicals;
- (c) monitor and record the exposure of workers to hazardous chemicals when this is necessary to safeguard their safety and health or as may be prescribed by the competent authority;
- (d) ensure that the records of the monitoring of the working environment and of the exposure of workers using hazardous chemicals are kept for a period prescribed by the competent authority and are accessible to the workers and their representatives.

Article 13

OPERATIONAL CONTROL

1. Employers shall make an assessment of the risks arising from the use of chemicals at work, and shall protect workers against such risks by appropriate means, such as:

- (a) the choice of chemicals that eliminate or minimise the risk;
- (b) the choice of technology that eliminates or minimises the risk;
- (c) the use of adequate engineering control measures;
- (d) the adoption of working systems and practices that eliminate or minimise the risk;

- (e) the adoption of adequate occupational hygiene measures;
 - (f) where recourse to the above measures does not suffice, the provision and proper maintenance of personal protective equipment and clothing at no cost to the worker, and the implementation of measures to ensure their use.
2. Employers shall:
- (a) limit exposure to hazardous chemicals so as to protect the safety and health of workers;
 - (b) provide first aid;
 - (c) make arrangements to deal with emergencies.

Article 14

DISPOSAL

Hazardous chemicals which are no longer required and containers which have been emptied but which may contain residues of hazardous chemicals, shall be handled or disposed of in a manner which eliminates or minimises the risk to safety and health and to the environment, in accordance with national law and practice.

Article 15

INFORMATION AND TRAINING

Employers shall:

- (a) inform the workers of the hazards associated with exposure to chemicals used at the workplace;
- (b) instruct the workers how to obtain and use the information provided on labels and chemical safety data sheets;
- (c) use the chemical safety data sheets, along with information specific to the workplace, as a basis for the preparation of instructions to workers, which should be written if appropriate;
- (d) train the workers on a continuing basis in the practices and procedures to be followed for safety in the use of chemicals at work.

Article 16

CO-OPERATION

Employers, in discharging their responsibilities, shall co-operate as closely as possible with workers or their representatives with respect to safety in the use of chemicals at work.

PART V. DUTIES OF WORKERS

Article 17

1. Workers shall co-operate as closely as possible with their employers in the discharge by the employers of their responsibilities and comply with all procedures and practices relating to safety in the use of chemicals at work.
2. Workers shall take all reasonable steps to eliminate or minimise risk to themselves and to others from the use of chemicals at work.

PART VI. RIGHTS OF WORKERS AND THEIR REPRESENTATIVES

Article 18

1. Workers shall have the right to remove themselves from danger resulting from the use of chemicals when they have reasonable justification to believe there is an imminent and serious risk to their safety or health, and shall inform their supervisor immediately.
2. Workers who remove themselves from danger in accordance with the provisions of the previous paragraph or who exercise any other rights under this Convention shall be protected against undue consequences.
3. Workers concerned and their representatives shall have the right to:
 - (a) information on the identity of chemicals used at work, the hazardous properties of such chemicals, precautionary measures, education and training;
 - (b) the information contained in labels and markings;
 - (c) chemical safety data sheets;
 - (d) any other information required to be kept by this Convention.
4. Where disclosure of the specific identity of an ingredient of a chemical mixture to a competitor would be liable to cause harm to the employer's business, the employer may, in providing the information required under paragraph 3 above, protect that identity in a manner approved by the competent authority under Article 1, paragraph 2 (b).

PART VII. RESPONSIBILITY OF EXPORTING STATES

Article 19

When in an exporting member State all or some uses of hazardous chemicals are prohibited for reasons of safety and health at work, this fact and the reasons for it shall be communicated by the exporting member State to any importing country.

Article 20

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

Article 21

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 22

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 23

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 24

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 25

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 26

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 22 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 27

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

Recommendation 177

RECOMMENDATION CONCERNING SAFETY IN THE USE OF CHEMICALS AT WORK

The General Conference of the International Labour Organisation, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 77th Session on 6 June 1990, and Having decided upon the adoption of certain proposals with regard to safety in the use of chemicals at work, 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 Chemicals Convention, 1990; adopts this twenty-fifth day of June of the year one thousand nine hundred and ninety the following Recommendation, which may be cited as the Chemicals Recommendation, 1990.

I. GENERAL PROVISIONS

1. The provisions of this Recommendation should be applied in conjunction with those of the Chemicals Convention, 1990 (hereafter referred to as "the Convention").

2. The most representative organisations of employers and workers concerned should be consulted on the measures to be taken to give effect to the provisions of this Recommendation.

3. The competent authority should specify categories of workers who for reasons of safety and health are not allowed to use specified chemicals or are allowed to use them only under conditions prescribed in accordance with national laws or regulations.

4. The provisions of this Recommendation should also apply to such self-employed persons as may be specified by national laws or regulations.

5. The special provisions established by the competent authority to protect confidential information, under Article 1, paragraph 2(b), and Article 18, paragraph 4, of the Convention, should:

- (a) limit the disclosure of confidential information to those who have a need related to workers' safety and health;
- (b) ensure that those who obtain confidential information agree to use it only to address safety and health needs and otherwise to protect its confidentiality;
- (c) provide that relevant confidential information be disclosed immediately in an emergency;
- (d) provide for procedures to consider promptly the validity of the confidentiality claim and of the need for the information withheld where there is a disagreement regarding disclosure.

II. CLASSIFICATION AND RELATED MEASURES

CLASSIFICATION

6. The criteria for the classification of chemicals established pursuant to Article 6, paragraph 1, of the Convention should be based upon the characteristics of chemicals including:

- (a) toxic properties, including both acute and chronic health effects in all parts of the body;
- (b) chemical or physical characteristics, including flammable, explosive, oxidising and dangerously reactive properties;
- (c) corrosive and irritant properties;
- (d) allergenic and sensitising effects;
- (e) carcinogenic effects;
- (f) teratogenic and mutagenic effects;
- (g) effects on the reproductive system.

7. (1) As far as is reasonably practicable, the competent authority should compile and periodically update a consolidated list of the chemical elements and compounds used at work, together with relevant hazard information.

(2) For chemical elements and compounds not yet included in the consolidated list, the manufacturers or importers should, unless exempted, be required to transmit to the competent authority, prior to use at work, and in a manner consistent with the protection of confidential information under Article 1, paragraph 2 (b), of the Convention, such information as is necessary for the maintenance of the list.

LABELLING AND MARKING

8. (1) The requirements for the labelling and marking of chemicals established pursuant to Article 7 of the Convention, should be such as to enable persons handling or using chemicals to recognise and distinguish between them both when receiving and when using them, so that they may be used safely.

(2) The labelling requirements for hazardous chemicals should, in conformity with existing national or international systems, cover:

- (a) the information to be given on the label including as appropriate:
 - (i) trade names;
 - (ii) identity of the chemical;
 - (iii) name, address and telephone number of the supplier;
 - (iv) hazard symbols;
 - (v) nature of the special risks associated with the use of the chemical;
 - (vi) safety precautions;
 - (vii) identification of the batch;
 - (viii) the statement that a chemical safety data sheet giving additional information is available from the employer;
 - (ix) the classification assigned under the system established by the competent authority;
- (b) the legibility, durability and size of the label;

(c) the uniformity of labels and symbols, including colours.

(3) The label should be easily understandable by workers.

(4) In the case of chemicals not covered by subparagraph (2) above, the marking may be limited to the identity of the chemical.

9. Where it is impracticable to label or mark a chemical in view of the size of the container or the nature of the package, provision should be made for other effective means of recognition such as tagging or accompanying documents. However, all containers of hazardous chemicals should indicate the hazards of the contents through appropriate wording or symbols.

CHEMICAL SAFETY DATA SHEETS

10. (1) The criteria for the preparation of chemical safety data sheets for hazardous chemicals should ensure that they contain essential information including, as applicable:

- (a) chemical product and company identification (including trade or common name of the chemical and details of the supplier or manufacturer);
- (b) composition/information on ingredients (in a way that clearly identifies them for the purpose of conducting a hazard evaluation);
- (c) hazards identification;
- (d) first-aid measures;
- (e) fire-fighting measures;
- (f) accidental release measures;
- (g) handling and storage;
- (h) exposure controls/personal protection (including possible methods of monitoring workplace exposure);
- (i) physical and chemical properties;
- (j) stability and reactivity;
- (k) toxicological information (including the potential routes of entry into the body and the possibility of synergism with other chemicals or hazards encountered at work);
- (l) ecological information;
- (m) disposal considerations;
- (n) transport information;
- (o) regulatory information;
- (p) other information (including the date of preparation of the chemical safety data sheet).

(2) Where the names or concentrations of the ingredients referred to in subparagraph (1) (b) above constitute confidential information, they may, in accordance with Article 1, paragraph 2 (b), of the Convention, be omitted from the chemical safety data sheet. In accordance with Paragraph 5 of this Recommendation the information should be disclosed on request and in writing to the competent authority and to concerned employers, workers and their representatives who agree to use the information only for the protection of workers' safety and health and not otherwise to disclose it.

III. RESPONSIBILITIES OF EMPLOYERS

MONITORING OF EXPOSURE

11. (1) Where workers are exposed to hazardous chemicals, the employer should be required to:

- (a) limit exposure to such chemicals so as to protect the health of workers;
- (b) assess, monitor and record, as necessary, the concentration of airborne chemicals at the workplace.

(2) Workers and their representatives and the competent authority should have access to these records.

(3) Employers should keep the records provided for in this Paragraph for a period of time determined by the competent authority.

OPERATIONAL CONTROL WITHIN THE WORKPLACE

12. (1) Measures should be taken by employers to protect workers against hazards arising from the use of chemicals at work, based upon the criteria established pursuant to Paragraphs 13 to 16 below.

(2) In accordance with the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office, a national or multinational enterprise with more than one establishment should provide safety measures relating to the prevention and control of, and protection against, health hazards due to occupational exposure to hazardous chemicals, without discrimination, to the workers in all its establishments regardless of the place or country in which they are situated.

13. The competent authority should ensure that criteria are established for safety in the use of hazardous chemicals, including provisions covering, as applicable:

- (a) the risk of acute or chronic diseases due to entry into the body by inhalation, skin absorption or ingestion;
- (b) the risk of injury or disease from skin or eye contact;
- (c) the risk of injury from fire, explosion or other events resulting from physical properties or chemical reactivity;
- (d) the precautionary measures to be taken through:
 - (i) the choice of chemicals that eliminate or minimise such risks;
 - (ii) the choice of processes, technology and installations that eliminate or minimise such risks;
 - (iii) the use and proper maintenance of engineering control measures;
 - (iv) the adoption of working systems and practices that eliminate or minimise such risks;
 - (v) the adoption of adequate personal hygiene measures and provision of adequate sanitary facilities;
 - (vi) the provision, maintenance and use of suitable personal protective equipment and clothing, at no cost to the worker where the above measures have not proved sufficient to eliminate such risks;
 - (vii) the use of signs and notices;
 - (viii) adequate preparations for emergencies.

14. The competent authority should ensure that criteria are established for safety in the storage of hazardous chemicals, including provisions covering, as applicable:

- (a) the compatibility and segregation of stored chemicals;
- (b) the properties and quantity of chemicals to be stored;
- (c) the security and siting of and access to stores;
- (d) the construction, nature and integrity of storage containers;
- (e) loading and unloading of storage containers;
- (f) labelling and relabelling requirements;
- (g) precautions against accidental release, fire, explosion and chemical reactivity;
- (h) temperature, humidity and ventilation;
- (i) precautions and procedures in case of spillage;
- (j) emergency procedures;
- (k) possible physical and chemical changes in stored chemicals.

15. The competent authority should ensure that criteria consistent with national or international transport regulations are established for the safety of workers involved in the transport of hazardous chemicals, including provisions covering, as applicable:

- (a) the properties and quantity of chemicals to be transported;
- (b) the nature, integrity and protection of packagings and containers used in transport, including pipelines;
- (c) the specifications of the vehicle used in transport;
- (d) the routes to be taken;
- (e) the training and qualifications of transport workers;
- (f) labelling requirements;
- (g) loading and unloading;
- (h) procedures in case of spillage.

16. (1) The competent authority should ensure that criteria consistent with national or international regulations regarding disposal of hazardous waste are established for procedures to be followed in the disposal and treatment of hazardous chemicals and hazardous waste products with a view to ensuring the safety of workers.

(2) These criteria should include provisions covering, as applicable:

- (a) the method of identification of waste products;
- (b) the handling of contaminated containers;
- (c) the identification, construction, nature, integrity and protection of waste containers;
- (d) the effects on the working environment;
- (e) the demarcation of disposal areas;
- (f) the provision, maintenance and use of personal protective equipment and clothing;
- (g) the method of disposal or treatment.

17. The criteria for the use of chemicals at work established pursuant to the provisions of the Convention and this Recommendation should be as consistent as possible with the protection of the general public and the environment and any criteria established for that purpose.

18. (1) The employer, or the institution competent under national law and practice, should be required to arrange, through a method which accords with national law and practice, such medical surveillance of workers as is necessary:

- (a) for the assessment of the health of workers in relation to hazards caused by exposure to chemicals;
- (b) for the diagnosis of work-related diseases and injuries caused by exposure to hazardous chemicals.

(2) Where the results of medical tests or investigations reveal clinical or preclinical effects, measures should be taken to prevent or reduce exposure of the workers concerned, and to prevent further deterioration of their health.

(3) The results of medical examinations should be used to determine health status with respect to exposure to chemicals, and should not be used to discriminate against the worker.

(4) Records resulting from medical surveillance of workers should be kept for a period of time and by persons prescribed by the competent authority.

(5) Workers should have access to their own medical records, either personally or through their own physicians.

(6) The confidentiality of individual medical records should be respected in accordance with generally accepted principles of medical ethics.

(7) The results of medical examinations should be clearly explained to the workers concerned.

(8) Workers and their representatives should have access to the results of studies prepared from medical records, where individual workers cannot be identified.

(9) The results of medical records should be made available to prepare appropriate health statistics and epidemiological studies, provided anonymity is maintained, where this may aid in the recognition and control of occupational diseases.

FIRST AID AND EMERGENCIES

19. In accordance with any requirements laid down by the competent authority, employers should be required to maintain procedures, including first-aid arrangements, to deal with emergencies and accidents resulting from the use of hazardous chemicals at work and to ensure that workers are trained in these procedures.

IV. CO-OPERATION

20. Employers, workers and their representatives should co-operate as closely as possible in the application of measures prescribed pursuant to this Recommendation.

21. Workers should be required to:

- (a) take care as far as possible of their own safety and health and of that of other persons who may be affected by their acts or omissions at work in accordance with their training and with instructions given by their employer;
- (b) use properly all devices provided for their protection or the protection of others;

- (c) report forthwith to their supervisor any situation which they believe could present a risk, and which they cannot properly deal with themselves.

22. Publicity material concerning hazardous chemicals intended for use at work should call attention to their hazards and the necessity to take precautions.

23. Suppliers should, on Request, provide employers with such information as is available and required for the evaluation of any unusual hazards which might result from a particular use of a chemical at work.

V. RIGHTS OF WORKERS

24. (1) Workers and their representatives should have the right to:

- (a) obtain chemical safety data sheets and other information from the employer so as to enable them to take adequate precautions, in co-operation with their employer, to protect workers against risks from the use of hazardous chemicals at work;
- (b) request and participate in an investigation by the employer or the competent authority of possible risks resulting from the use of chemicals at work.

(2) Where the information requested is confidential in accordance with Article 1, paragraph 2 (b), and Article 18, paragraph 4, of the Convention, employers may require the workers or workers' representatives to limit its use to the evaluation and control of possible risks arising from the use of chemicals at work, and to take reasonable steps to ensure that this information is not disclosed to potential competitors.

(3) Having regard to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, multinational enterprises should make available, upon request, to workers concerned, workers' representatives, the competent authority and employers' and workers' organisations in all countries in which they operate, information on the standards and procedures related to the use of hazardous chemicals relevant to their local operations, which they observe in other countries.

25. (1) Workers should have the right:

- (a) to bring to the attention of their representatives, the employer or the competent authority, potential hazards arising from the use of chemicals at work;
- (b) to remove themselves from danger resulting from the use of chemicals when they have reasonable justification to believe there is an imminent and serious risk to their safety or health, and should inform their supervisor immediately;
- (c) in the case of a health condition, such as chemical sensitisation, placing them at increased risk of harm from a hazardous chemical, to alternative work not involving that chemical, if such work is available and if the workers concerned have the qualifications or can reasonably be trained for such alternative work;
- (d) to compensation if the case referred to in subparagraph (1) (c) results in loss of employment;
- (e) to adequate medical treatment and compensation for injuries and diseases resulting from the use of chemicals at work.

(2) Workers who remove themselves from danger in accordance with the provisions of subparagraph (1) (b) or who exercise any of their rights under this Recommendation should be protected against undue consequences.

(3) Where workers have removed themselves from danger in accordance with subparagraph (1) (b), the employer, in co-operation with workers and their representatives, should immediately investigate the risk and take any corrective steps necessary.

(4) Women workers should have the right, in the case of pregnancy or lactation, to alternative work not involving the use of, or exposure to, chemicals hazardous to the health of the unborn or nursing child, where such work is available, and the right to return to their previous jobs at the appropriate time.

26. Workers should receive:

- (a) information on the classification and labelling of chemicals and on chemical safety data sheets in forms and languages which they easily understand;
- (b) information on the risks which may arise from the use of hazardous chemicals in the course of their work;
- (c) instruction, written or oral, based on the chemical safety data sheet and specific to the workplace if appropriate;
- (d) training and, where necessary, retraining in the methods which are available for the prevention and control of, and for protection against, such risks, including correct methods of storage, transport and waste disposal as well as emergency and first-aid measures.

Convention 171

CONVENTION CONCERNING NIGHT WORK

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 77th Session on 6 June 1990, and
Noting the provisions of international labour Conventions and Recommendations on the night work of children and young persons, and specifically the provisions in the Night Work of Young Persons (Non-Industrial Occupations) Convention and Recommendation, 1946, the Night Work of Young Persons (Industry) Convention (Revised), 1948, and the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921, and
Noting the provisions of international labour Conventions and Recommendations on night work of women, and specifically the provisions in the Night Work (Women) Convention (Revised), 1948, and the Protocol of 1990 thereto, the Night Work of Women (Agriculture) Recommendation, 1921, and Paragraph 5 of the Maternity Protection Recommendation, 1952, and
Noting the provisions of the Discrimination (Employment and Occupation) Convention, 1958, and
Noting the provisions of the Maternity Protection Convention (Revised), 1952, and
Having decided upon the adoption of certain proposals with regard to night work, which is the fourth item on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and ninety the following Convention, which may be cited as the Night Work Convention, 1990:

Article 1

For the purposes of this Convention:

- (a) the term "night work" means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
- (b) the term "night worker" means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.

Article 2

1. This Convention applies to all employed persons except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.

2. A Member which ratifies this Convention may, after consulting the representative organisations of employers and workers concerned, exclude wholly

or partly from its scope limited categories of workers when the application of the Convention to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in paragraph 2 of this Article shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate the particular categories of workers thus excluded and the reasons for their exclusion. It shall also describe all measures taken with a view to progressively extending the provisions of the Convention to the workers concerned.

Article 3

1. Specific measures required by the nature of night work, which shall include, as a minimum, those referred to in Articles 4 to 10, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.

2. The measures referred to in paragraph 1 above may be applied progressively.

Article 4

1. At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:

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

2. With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment.

Article 5

Suitable first-aid facilities shall be made available for workers performing night work, including arrangements whereby such workers, where necessary, can be taken quickly to a place where appropriate treatment can be provided.

Article 6

1. Night workers certified, for reasons of health, as unfit for night work shall be transferred, whenever practicable, to a similar job for which they are fit.

2. If transfer to such a job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work or to secure employment.

3. A night worker certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health.

Article 7

1. Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

- (a) before and after childbirth, for a period of at least sixteen weeks of which at least eight weeks shall be before the expected date of childbirth;
- (b) for additional periods in respect of which a medical certificate is produced stating that it is necessary for the health of the mother or child:
 - (i) during pregnancy;
 - (ii) during a specified time beyond the period after childbirth fixed pursuant to subparagraph (a) above, the length of which shall be determined by the competent authority after consulting the most representative organisations of employers and workers.

2. The measures referred to in paragraph 1 of this Article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.

3. During the periods referred to in paragraph 1 of this Article:

- (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
- (b) the income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured by any of the measures listed in paragraph 2 of this Article, by other appropriate measures or by a combination of these measures;
- (c) a woman worker shall not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.

4. The provisions of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

Article 8

Compensation for night workers in the form of working time, pay or similar benefits shall recognise the nature of night work.

Article 9

Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work.

Article 10

1. Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives concerned on the details of such schedules and the forms of organisation of night work that are best adapted to the establishment and its personnel as well as on the occupational health measures and social services which are required. In establishments employing night workers this consultation shall take place regularly.

2. For the purposes of this Article the term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

Article 11

1. The provisions of this Convention may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national

conditions and practice. In so far as they have not been given effect by other means, they shall be implemented by laws or regulations.

2. Where the provisions of this Convention are implemented by laws or regulations, there shall be prior consultation with the most representative organisations of employers and workers.

Article 12

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

Article 13

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 14

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 15

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 16

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 17

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 18

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 14 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 19

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

Recommendation 178

RECOMMENDATION CONCERNING NIGHT WORK

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International
Labour Office, and having met in its 77th Session on 6 June 1990, and
Having decided upon the adoption of certain proposals with regard to night
work, 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 Night Work Convention, 1990,
adopts this twenty-sixth day of June of the year one thousand nine hundred and
ninety the following Recommendation, which may be cited as the Night Work
Recommendation, 1990:

I. GENERAL PROVISIONS

1. For the purposes of this Recommendation:
 - (a) the term "night work" means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
 - (b) the term "night worker" means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.
2. This Recommendation applies to all employed persons, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.
3. (1) The provisions of this Recommendation may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and practice. In so far as they have not been given effect by other means, they should be implemented by laws or regulations.
(2) Where the provisions of this Recommendation are implemented by laws or regulations, there should be prior consultation with the most representative organisations of employers and workers.

II. HOURS OF WORK AND REST PERIODS

4. (1) Normal hours of work for night workers should not exceed eight in any 24-hour period in which they perform night work, except in the case of work which includes substantial periods of mere attendance or stand-by, in cases in which alternative working schedules give workers at least equivalent protection over

different periods or in cases of exceptional circumstances recognised by collective agreements or failing that by the competent authority.

(2) The normal hours of work of night workers should generally be less on average than and, in any case, not exceed on average those of workers performing the same work to the same requirements by day in the branch of activity or the undertaking concerned.

(3) Night workers should benefit to at least the same extent as other workers from general measures for reducing normal weekly hours of work and increasing days of paid leave.

5. (1) Work should be organised in such a way as to avoid, as far as possible, overtime by night workers before or after a daily period of work which includes night work.

(2) In occupations involving special hazards or heavy physical or mental strain, no overtime should be performed by night workers before or after a daily period of work which includes night work, except in cases of *force majeure* or of actual or imminent accident.

6. Where shift work involves night work:

- (a) in no case should two consecutive full-time shifts be performed, except in cases of *force majeure* or of actual or imminent accident;
- (b) a rest period of at least 11 hours between two shifts should be guaranteed as far as possible.

7. Daily periods of work which include night work should include a break or breaks to enable workers to rest and eat. The scheduling and total length of these breaks should take account of the demands placed on workers by the nature of night work.

III. FINANCIAL COMPENSATION

8. (1) Night work should generally give rise to appropriate financial compensation. Such compensation should be additional to the remuneration paid for the same work performed to the same requirements during the day and:

- (a) should respect the principle of equal pay for men and women for the same work, or for work of equal value; and
- (b) may by agreement be converted into reduced working time.

(2) In determining such compensation, the extent of reductions in working hours may be taken into account.

9. Where financial compensation for night work is a normal element in a night worker's earnings, it should be included in the calculation of the remuneration of paid annual leave, paid public holidays and other absences that are normally paid as well as in the fixing of social security contributions and benefits.

IV. SAFETY AND HEALTH

10. Employers and the workers' representatives concerned should be able to consult the occupational health services, where they exist, on the consequences of various forms of organisation of night work, especially when undertaken by rotating crews.

11. In determining the content of the tasks assigned to night workers, account should be taken of the nature of night work and of the effects of environmental factors and forms of work organisation. Special attention should be paid to factors such as toxic substances, noise, vibrations and lighting levels and to forms of work organisation involving heavy physical or mental strain. Cumulative effects from such factors and forms of work organisation should be avoided or reduced.

12. The employer should take the necessary measures to maintain during night work the same level of protection against occupational hazards as by day, in particular avoiding, as far as possible, the isolation of workers.

V. SOCIAL SERVICES

13. Measures should be taken to limit or reduce the time spent by night workers in travelling between their residence and workplace, to avoid or reduce additional travelling expenses for them and to improve their safety when travelling at night. Such measures may include:

- (a) co-ordination between the starting and finishing times of daily periods of work which include night work and the schedules of local public transport services;
- (b) provision by the employer of collective means of transport for night workers where public transport services are not available;
- (c) assistance to night workers in the acquisition of appropriate means of transport;
- (d) the payment of appropriate compensation for additional travelling expenses;
- (e) the building of housing complexes within a reasonable distance of the workplace.

14. Measures should be taken to improve the quality of rest for night workers. Such measures may include:

- (a) advice and, where appropriate, assistance to night workers for noise insulation of their housing;
- (b) design and equipping of housing complexes which take into account the need to reduce noise levels.

15. Suitably equipped resting facilities should be made available to night workers in appropriate places in the undertaking.

16. The employer should take the necessary measures to enable workers performing night work to obtain meals and beverages. Such measures, devised in such a way as to meet the needs of night workers, may include:

- (a) making available, at appropriate places in the undertaking, food and beverages suitable for consumption at night;
- (b) access to facilities where workers may, at night, prepare or heat and eat food which they have brought.

17. The extent to which night work is performed locally should be one of the factors to be taken into consideration when deciding on the establishment of crèches or other services for the care of young children, choosing their location and determining their opening hours.

18. The specific constraints on night workers should be duly taken into consideration by the public authorities, by other institutions and by employers within the framework of measures to encourage training and retraining, as well as cultural, sporting or recreational activities for workers.

19. At any point during pregnancy, once this is known, women night workers who so request should be assigned to day work, as far as practicable.

20. In cases of shift work, the special situation of workers with family responsibilities, of workers undergoing training and of older workers should be taken into consideration when decisions are taken on the composition of night crews.

21. Except in cases of *force majeure* or of actual or imminent accident, workers should be given reasonable notice of a requirement to perform night work.

22. Measures should be taken, where appropriate, to enable night workers, like other workers, to benefit from training opportunities including paid educational leave.

23. (1) Night workers who have completed a given number of years on night work should be accorded special consideration with respect to vacancies for day work for which they have the necessary qualifications.

(2) Preparations should be made for such transfers by facilitating the training of night workers where necessary for tasks normally performed by day.

24. Workers who have spent a considerable number of years as night workers should be accorded special consideration with respect to opportunities for voluntary early or phased retirement where such opportunities exist.

25. Night workers who have a trade union or workers' representation function should, like other workers who assume such a function, be able to exercise it in appropriate conditions. The need to carry out workers' representation functions should be taken into consideration when decisions are made concerning assignment of workers' representatives to night work.

26. Statistics on night work should be improved and studies on the effects of different forms of organisation of night work, particularly when carried out in the framework of shift systems, should be intensified.

27. Wherever possible, advantage should be taken of scientific and technical progress and of innovations relating to work organisation in order to limit recourse to night work.

Convention 172**CONVENTION CONCERNING WORKING CONDITIONS
IN HOTELS, RESTAURANTS AND SIMILAR ESTABLISHMENTS**

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 78th Session on 5 June 1991, and

Recalling that international labour Conventions and Recommendations laying
down standards of general application concerning working conditions are
applicable to workers in hotels, restaurants and similar establishments, and

Noting that the particular conditions characterising work in hotels, restaurants
and similar establishments make it desirable to improve the application of
these Conventions and Recommendations in these categories of
establishments and to supplement them by specific standards designed to
enable the workers concerned to enjoy a status corresponding to their role in
these rapidly expanding categories of establishments and to attract new
workers to them, by improving working conditions, training and career
prospects, and

Noting that collective bargaining is an effective means of determining
conditions of work in this sector, and

Considering that the adoption of a Convention together with collective
bargaining will enhance working conditions, career prospects and job
security, to the benefit of the workers, and

Having decided upon the adoption of certain proposals with regard to working
conditions in hotels, restaurants and similar establishments, which is the
fourth item on the agenda of the session, and

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

adopts this twenty-fifth day of June of the year one thousand nine hundred and
ninety-one the following Convention, which may be cited as the Working
Conditions (Hotels and Restaurants) Convention, 1991:

Article 1

1. Subject to the provisions of Article 2, paragraph 1, this Convention applies
to workers employed within:

- (a) hotels and similar establishments providing lodging;
- (b) restaurants and similar establishments providing food, beverages or both.

2. The definition of the categories referred to in subparagraphs (a) and (b)
above shall be determined by each Member in the light of national conditions and
after consulting the employers' and workers' organisations concerned. Each
Member which ratifies the Convention may, after consulting the employers' and
workers' organisations concerned, exclude from its application certain types of
establishments which fall within the definition mentioned above, but where
nevertheless special problems of a substantial nature arise.

3. (a) Each Member which ratifies this Convention may, after consulting the
employers' and workers' organisations concerned, extend its application to other

related establishments providing tourism services which shall be specified in a declaration appended to its ratification.

(b) Each Member which has ratified this Convention may, after consulting the employers' and workers' organisations concerned, further subsequently notify the Director-General of the International Labour Office, by a declaration, that it extends the application of the Convention to further categories of related establishments providing tourism services.

4. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any type of establishment which may have been excluded in pursuance of paragraph 2 above, giving the reasons for such exclusion, stating the respective positions of the employers' and workers' organisations concerned with regard to such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the establishments excluded, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such establishments.

Article 2

1. For the purpose of this Convention, the term "the workers concerned" means workers employed within establishments to which the Convention applies pursuant to the provisions of Article 1, irrespective of the nature and duration of their employment relationship. However, each Member may, in the light of national law, conditions and practice and after consulting the employers' and workers' organisations concerned, exclude certain particular categories of workers from the application of all or some of the provisions of this Convention.

2. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any categories of workers which may have been excluded in pursuance of paragraph 1 above, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

Article 3

1. Each Member shall, with due respect to the autonomy of the employers' and workers' organisations concerned, adopt and apply, in a manner appropriate to national law, conditions and practice, a policy designed to improve the working conditions of the workers concerned.

2. The general objective of such a policy shall be to ensure that the workers concerned are not excluded from the scope of any minimum standards adopted at the national level for workers in general, including those relating to social security entitlements.

Article 4

1. Unless otherwise determined by national law or practice, the term "hours of work" means the time during which a worker is at the disposal of the employer.

2. The workers concerned shall be entitled to reasonable normal hours of work and overtime provisions in accordance with national law and practice.

3. The workers concerned shall be provided with reasonable minimum daily and weekly rest periods, in accordance with national law and practice.

4. The workers concerned shall, where possible, have sufficient advance notice of working schedules to enable them to organise their personal and family life accordingly.

Article 5

1. If workers are required to work on public holidays, they shall be appropriately compensated in time or remuneration, as determined by collective bargaining or in accordance with national law or practice.

2. The workers concerned shall be entitled to annual leave with pay of a length to be determined by collective bargaining or in accordance with national law or practice.

3. In cases where their contract expires or their period of continuous service is not of sufficient duration to qualify them for full annual leave, the workers concerned shall be entitled to paid leave proportionate to the length of service or payment of wages in lieu, as determined by collective bargaining or in accordance with national law or practice.

Article 6

1. The term "tip" means an amount of money given voluntarily to the worker by a customer, in addition to the amount which the customer has to pay for the services received.

2. Regardless of tips, the workers concerned shall receive a basic remuneration that is paid at regular intervals.

Article 7

Where such a practice exists, the sale and purchase of employment in establishments referred to in Article 1 shall be prohibited.

Article 8

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

2. For the Members where the provisions of this Convention are matters normally left to agreements between employers or employers' organisations and workers' organisations, or are normally carried out otherwise than by law, compliance with those provisions shall be treated as effective if they are applied through such agreements or other means to the great majority of the workers concerned.

Article 9

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

Article 10

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 11

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 12

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 13

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 14

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 15

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 11 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 16

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

Recommendation 179

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

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 78th Session on 5 June 1991, and

Having decided upon the adoption of certain proposals with regard to working
conditions in hotels, restaurants and similar establishments, which is the
fourth item on the agenda of the session, and

Having determined, following adoption of the Working Conditions (Hotels and
Restaurants) Convention, 1991, that these proposals shall take the form of a
supplementary Recommendation;

adopts this twenty-fifth day of June of the year one thousand nine hundred and
ninety-one the following Recommendation, which may be cited as the Working
Conditions (Hotels and Restaurants) Recommendation, 1991:

I. GENERAL PROVISIONS

1. This Recommendation applies to workers, as defined in paragraph 3,
employed within:

(a) hotels and similar establishments providing lodging;

(b) restaurants and similar establishments providing food, beverages or both.

2. Members may, after consulting the employers' and workers' organisations
concerned, extend the application of this Recommendation to other related
establishments providing tourism services.

3. For the purpose of this Recommendation the term "the workers concerned"
means workers employed within establishments to which this Recommendation
applies pursuant to the provisions of paragraphs 1 and 2, irrespective of the nature
and duration of their employment relationship.

4. (1) This Recommendation may be applied by or through national laws or
regulations, collective agreements, arbitration awards or judicial decisions, or in
any other appropriate manner consistent with national practice.

(2) Members should:

(a) provide for the effective supervision of the application of measures taken in
pursuance of this Recommendation through an inspection service or other app-
ropriate means;

(b) encourage the employers' and workers' organisations concerned to play an
active part in promoting the application of the provisions of this Recommen-
dation.

5. The general objective of this Recommendation is, with due respect to the
autonomy of the employers' and workers' organisations concerned, to improve the
working conditions of the workers concerned in order to bring them closer to those
prevailing in other sectors of the economy.

6. Unless otherwise determined by the methods referred to in paragraph 4(1), the term "hours of work" means the time during which a worker is at the disposal of the employer.

7. (1) The implementation of measures fixing normal hours of work and regulating overtime should be the subject of consultations between the employer and the workers concerned or their representatives.

(2) The term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

(3) Overtime work should be compensated by time off with pay, by a higher rate or rates of remuneration for the overtime worked, or by a higher rate of remuneration, as determined in accordance with national law and practice and after consultations between the employer and the workers concerned or their representatives.

(4) Measures should be taken to ensure that working hours and overtime work are properly calculated and recorded and that each worker has access to his or her record.

8. Wherever practicable, split shifts should be progressively eliminated, preferably through collective bargaining.

9. The number and length of meal breaks should be determined in the light of the customs and traditions of each country or area and according to whether the meal is taken in the establishment itself or elsewhere.

10. (1) The workers concerned should, as far as possible, be entitled to a weekly rest of not less than 36 hours which, wherever practicable, should be an uninterrupted period.

(2) The workers concerned should be entitled to an average daily rest period of 10 consecutive hours.

11. Where the length of paid annual holiday for the workers concerned is less than four weeks for one year of service, steps should be taken, through collective bargaining or other means consistent with national practice, to bring it progressively to that level.

III. TRAINING

12. (1) Each Member should, in consultation with the employers' and workers' organisations concerned, establish or, where appropriate, assist employers' and workers' organisations and other institutions in the establishment of policies and programmes of vocational education and training and of management development for the different occupations in hotels, restaurants and similar establishments.

(2) The principal objective of training programmes should be to improve skills and the quality of job performance and enhance the career prospects of the participants.

Convention 173

CONVENTION CONCERNING THE PROTECTION OF WORKERS' CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER

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 79th Session on 3 June 1992, and

Stressing the importance of the protection of workers' claims in the event of the insolvency of their employer and recalling the provisions on this subject in Article 11 of the Protection of Wages Convention, 1949, and Article 11 of the Workmen's Compensation (Accidents) Convention, 1925, and

Noting that, since the adoption of the Protection of Wages Convention, 1949, greater value has been placed on the rehabilitation of insolvent enterprises and that, because of the social and economic consequences of insolvency, efforts should be made where possible to rehabilitate enterprises and safeguard employment, and

Noting that since the adoption of the aforementioned standards, significant developments have taken place in the law and practice of many Members which have improved the protection of workers' claims in the event of insolvency of their employer, and considering that it would be timely for the Conference to adopt new standards on the subject of workers' claims, and

Having decided upon the adoption of certain proposals with regard to the protection of workers' claims in the event of the insolvency of their employer, which is the fourth item on the agenda of the session, and

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

adopts this twenty-third day of June of the year one thousand nine hundred and ninety-two the following Convention, which may be cited as the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992.

PART I. GENERAL PROVISIONS

Article 1

1. For the purposes of this Convention, the term "insolvency" refers to situations in which, in accordance with national law and practice, proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of its creditors.

2. For the purposes of this Convention, a Member may extend the term "insolvency" to other situations in which workers' claims cannot be paid by reason of the financial situation of the employer, for example where the amount of the employer's assets is recognised as being insufficient to justify the opening of insolvency proceedings.

3. The extent to which an employer's assets are subject to the proceedings referred to in paragraph 1 above shall be determined by national laws, regulations or practice.

Article 2

The provisions of this Convention shall be applied by means of laws or regulations or by any other means consistent with national practice.

Article 3

1. A Member which ratifies this Convention shall accept either the obligations of Part II, providing for the protection of workers' claims by means of a privilege, or the obligations of Part III, providing for the protection of workers' claims by a guarantee institution, or the obligations of both Parts. This choice shall be indicated in a declaration accompanying its ratification.

2. A Member which has initially accepted only Part II or only Part III of this Convention may thereafter, by a declaration communicated to the Director-General of the International Labour Office, extend its acceptance to the other Part.

3. A Member which accepts the obligations of both Parts of this Convention may, after consulting the most representative organisations of employers and workers, limit the application of Part III to certain categories of workers and to certain branches of economic activity. Such limitations shall be specified in the declaration of acceptance.

4. A Member which has limited its acceptance of the obligations of Part III in accordance with paragraph 3 above shall, in its first report under article 22 of the Constitution of the International Labour Organisation, give the reasons for limiting its acceptance. In subsequent reports it shall provide information on any extension of the protection under Part III of this Convention to other categories of workers or other branches of economic activity.

5. A Member which has accepted the obligations of Parts II and III of this Convention may, after consulting the most representative organisations of employers and workers, exclude from the application of Part II those claims which are protected pursuant to Part III.

6. Acceptance by a Member of the obligations of Part II of this Convention shall *ipso jure* involve the termination of its obligations under Article 11 of the Protection of Wages Convention, 1949.

7. A Member which has accepted only the obligations of Part III of this Convention may, by a declaration communicated to the Director-General of the International Labour Office, terminate its obligations under Article 11 of the Protection of Wages Convention, 1949, in respect of those claims which are protected pursuant to Part III.

Article 4

1. Subject to the exceptions provided for in paragraph 2 below, and to any limitations specified in accordance with Article 3, paragraph 3, this Convention shall apply to all employees and to all branches of economic activity.

2. The competent authority, after consulting the most representative organisations of employers and workers, may exclude from Part II, Part III or both Parts of this Convention specific categories of workers, in particular public employees, by reason of the particular nature of their employment relationship, or if there are other types of guarantee affording them protection equivalent to that provided by the Convention.

3. A Member availing itself of the exceptions provided for in paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organisation, provide information on such exceptions, giving the reasons therefor.

PART II. PROTECTION OF WORKERS' CLAIMS BY MEANS OF A PRIVILEGE

PROTECTED CLAIMS

Article 5

In the event of an employer's insolvency, workers' claims arising out of their employment shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share.

Article 6

The privilege shall cover at least:

- (a) the workers' claims for wages relating to a prescribed period, which shall not be less than three months, prior to the insolvency or prior to the termination of the employment;
- (b) the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of the employment occurred, and in the preceding year;
- (c) the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months, prior to the insolvency or prior to the termination of the employment;
- (d) severance pay due to workers upon termination of their employment

LIMITATIONS

Article 7

1. National laws or regulations may limit the protection by privilege of workers' claims to a prescribed amount, which shall not be below a socially acceptable level.

2. Where the privilege afforded to workers' claims is so limited, the prescribed amount shall be adjusted as necessary so as to maintain its value.

RANK OF PRIVILEGE

Article 8

1. National laws or regulations shall give workers' claims a higher rank of privilege than most other privileged claims, and in particular those of the State and the social security system.

2. However, where workers' claims are protected by a guarantee institution in accordance with Part III of this Convention, the claims so protected may be given a lower rank of privilege than those of the State and the social security system.

PART III. PROTECTION OF WORKERS' CLAIMS BY A GUARANTEE
INSTITUTION

GENERAL PRINCIPLES

Article 9

The payment of workers' claims against their employer arising out of their employment shall be guaranteed through a guarantee institution when payment cannot be made by the employer because of insolvency.

Article 10

In giving effect to this Part of the Convention, a Member may, after consulting the most representative organisations of employers and workers, adopt appropriate measures for the purpose of preventing possible abuse.

Article 11

1. The organisation, management, operation and financing of wage guarantee institutions shall be determined pursuant to Article 2.

2. The preceding paragraph shall not prevent a Member, in accordance with its particular characteristics and needs, from allowing insurance companies to provide the protection referred to in Article 9, as long as they offer sufficient guarantees.

CLAIMS PROTECTED BY A GUARANTEE INSTITUTION

Article 12

The workers' claims protected pursuant to this Part of the Convention shall include at least:

- (a) the workers' claims for wages relating to a prescribed period, which shall not be less than eight weeks, prior to the insolvency or prior to the termination of the employment;
- (b) the workers' claims for holiday pay due as a result of work performed during a prescribed period, which shall not be less than six months, prior to the insolvency or prior to the termination of the employment;
- (c) the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than eight weeks, prior to the insolvency or prior to the termination of employment;
- (d) severance pay due to workers upon termination of their employment.

Article 13

1. Claims protected pursuant to this Part of the Convention may be limited to a prescribed amount, which shall not be below a socially acceptable level.

2. Where the claims protected are so limited, the prescribed amount shall be adjusted as necessary so as to maintain its value.

FINAL PROVISIONS

Article 14

This Convention revises the Protection of Wages Convention, 1949, to the extent provided for in Article 3, paragraphs 6 and 7 above, but does not close that Convention to further ratifications.

Article 15

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

Article 16

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

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

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

Article 17

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

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

Article 18

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

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

Article 19

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

Article 20

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

Article 21

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—
 - (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 17 above, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 22

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

INTERNATIONAL LABOUR CONFERENCE

Recommendation 180

RECOMMENDATION CONCERNING THE PROTECTION OF WORKERS' CLAIMS IN THE EVENT OF THE INSOLVENCY OF THEIR EMPLOYER

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 79th Session on 3 June 1992, and

Stressing the importance of the protection of workers' claims in the event of the insolvency of their employer and recalling the provisions on this subject in Article 11 of the Protection of Wages Convention, 1949, and Article 11 of the Workmen's Compensation (Accidents) Convention, 1925, and

Noting that, since the adoption of the Protection of Wages Convention, 1949, greater value has been given to the rehabilitation of insolvent enterprises and that, because of the social and economic consequences of insolvency, efforts should be made where possible to rehabilitate enterprises and safeguard employment, and

Noting that since the adoption of the aforementioned standards, significant developments have taken place in the law and practice of many Members which have improved the protection of workers' claims in the event of the insolvency of their employer, and considering that it would be timely for the Conference to adopt new standards on the subject of workers' claims, and

Recognising that guarantee institutions, if properly designed, afford greater protection of workers' claims, and

Having decided upon the adoption of certain proposals with regard to the protection of workers' claims in the event of the insolvency of their employer, 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 Protection of Workers' Claims (Employer's Insolvency) Convention, 1992;

adopts this twenty-third day of June of the year one thousand nine hundred and ninety-two the following Recommendation, which may be cited as the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992.

I. DEFINITIONS AND METHODS OF APPLICATION

1. (1) For the purposes of this Recommendation, the term "insolvency" refers to situations in which, in accordance with national law and practice, proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of its creditors.

(2) For the purposes of this Recommendation, Members may extend the term "insolvency" to other situations in which workers' claims cannot be paid by reason of the financial situation of the employer, and in particular to the following:

- (a) where the enterprise has closed down or ceased its activities or is voluntarily wound up;
- (b) where the amount of the employer's assets is insufficient to justify the opening of insolvency proceedings;

- (c) where, in the course of proceedings to recover a worker's claim arising out of employment, it is found that the employer has no assets or that these are insufficient to pay the debt in question;
- (d) where the employer has died and his or her assets have been placed in the hands of an administrator and the amounts due cannot be paid out of the estate.

(3) The extent to which an employer's assets are subject to the proceedings referred to in subparagraph (1) should be determined by national laws, regulations or practice.

2. The provisions of this Recommendation may be applied by means of laws or regulations or by any other means consistent with national practice.

II. PROTECTION OF WORKERS' CLAIMS BY MEANS OF A PRIVILEGE

PROTECTED CLAIMS

3. (1) The protection afforded by a privilege should cover the following claims:
- (a) wages, overtime pay, commissions and other forms of remuneration relating to work performed during a prescribed period prior to the insolvency or prior to termination of the employment. This period should be fixed by national laws or regulations and should not be less than 12 months;
 - (b) holiday pay due as a result of work performed during the year in which the insolvency or the termination of the employment occurred, and in the preceding year;
 - (c) amounts due in respect of other types of paid absence, end-of-year and other bonuses provided for by national laws or regulations, collective agreements or individual contracts of employment, relating to a prescribed period, which should not be less than 12 months, prior to the insolvency or prior to the termination of the employment;
 - (d) payments due in lieu of notice of termination of employment;
 - (e) severance pay, compensation for unfair dismissal and other payments due to workers upon termination of their employment;
 - (f) compensation payable directly by the employer in respect of occupational accidents and diseases.

(2) The protection afforded by a privilege might cover the following claims:

- (a) contributions due in respect of national statutory social security schemes, where failure to pay adversely affects workers' entitlements;
- (b) contributions due in respect of private, occupational, inter-occupational or enterprise social protection schemes independent of national statutory social security schemes, where failure to pay adversely affects workers' entitlements;
- (c) benefits to which the workers were entitled prior to the insolvency by virtue of their participation in enterprise social protection schemes and which are payable by the employer.

(3) Claims enumerated in subparagraphs (1) and (2) that have been awarded to a worker through an adjudication or arbitration within 12 months prior to the insolvency should be covered by the privilege regardless of the time-limits specified in those subparagraphs.

LIMITATIONS

4. Where the amount of the claim protected by a privilege is limited by national laws or regulations, in order that this amount should not fall below a socially acceptable level it should take into account variables such as the minimum wage, the part of the wage which is unattachable, the wage on which social security contributions are based or the average wage in industry.

CLAIMS WHICH FALL DUE AFTER THE INSOLVENCY PROCEEDINGS HAVE BEEN OPENED

5. Where, in accordance with national laws and regulations, an enterprise in respect of which insolvency proceedings have been opened is authorised to continue its activities, workers' claims arising out of work performed as from the date when the continuation was authorised should not be subject to the proceedings and should be paid, out of the funds available, as and when they fall due.

ACCELERATED PAYMENT PROCEDURES

6. (1) Where the insolvency proceedings cannot ensure rapid payment of workers' privileged claims, there should be a procedure for accelerated payment to ensure that the claims are paid, without awaiting the end of the proceedings, out of available funds or as soon as funds become available, unless the rapid payment of workers' claims is ensured by a guarantee institution.

(2) Accelerated payment of workers' claims may be ensured as follows:

- (a) the person or institution responsible for administering the employer's assets should pay such claims as soon as it has been determined that they are genuine and payable;
- (b) if the claim is contested, the worker should be able to have its validity determined by a court or any other body with jurisdiction over the matter, so as to have it paid in accordance with clause (a).

(3) The accelerated payment procedure should cover the totality of the claim protected by a privilege, or at least a part of it to be fixed by national laws or regulations.

III. PROTECTION OF WORKERS' CLAIMS BY A GUARANTEE INSTITUTION

SCOPE

7. The protection of workers' claims by a guarantee institution should have as wide a coverage as possible.

OPERATING PRINCIPLES

8. Guarantee institutions might operate according to the following principles:
- (a) they should be administratively, financially and legally independent of the employer;

- (b) employers should contribute to financing these institutions, unless this is fully covered by the public authorities;
- (c) they should assume their obligations vis-à-vis protected workers irrespective of whether any obligation the employer may have of contributing to their financing has been met;
- (d) they should assume a subsidiary responsibility for the liabilities of insolvent employers in respect of claims protected by the guarantee and should, by way of subrogation, be able to act in place of the workers to whom they have made payments;
- (e) the funds managed by guarantee institutions, other than those from general revenues, may only be used for the purpose for which they were collected.

CLAIMS PROTECTED BY THE GUARANTEE

9. (1) The guarantee should cover the following claims:

- (a) wages, overtime pay, commissions and other forms of remuneration relating to work performed during a prescribed period, which should not be less than three months, prior to the insolvency or prior to the termination of the employment;
- (b) holiday pay due as a result of work performed during the year in which the insolvency or the termination of the employment occurred, and in the preceding year;
- (c) end-of-year and other bonuses provided for by national laws or regulations, collective agreements or individual contracts of employment, relating to a prescribed period, which should not be less than 12 months, prior to the insolvency or prior to the termination of the employment;
- (d) amounts due in respect of other types of paid absence relating to a prescribed period, which should not be less than three months, prior to the insolvency or prior to the termination of the employment;
- (e) payments due in lieu of notice of termination of employment;
- (f) severance pay, compensation for unfair dismissal and other payments due to workers upon termination of their employment;
- (g) compensation payable directly by the employer in respect of occupational accidents and diseases.

(2) The guarantee might cover the following claims:

- (a) contributions due in respect of national statutory social security schemes, where failure to pay adversely affects workers' entitlements;
- (b) contributions due in respect of private, occupational, inter-occupational, or enterprise social protection schemes independent of national statutory social security schemes, where failure to pay adversely affects workers' entitlements;
- (c) benefits to which the workers were entitled prior to the insolvency by virtue of their participation in enterprise social protection schemes and which are payable by the employer;
- (d) wages or any other form of remuneration consistent with this Paragraph, awarded to a worker through adjudication or arbitration within three months prior to the insolvency.

LIMITATIONS

10. Where the amount of the claim protected by means of a guarantee institution is limited, in order that this amount should not fall below a socially acceptable level, it should take into account variables such as the minimum wage, the part of the wage which is unattachable, the wage on which social security contributions are based or the average wage in industry.

IV. PROVISION COMMON TO PARTS II AND III

11. Workers or their representatives should receive timely information and be consulted with regard to insolvency proceedings which have been opened and to which the workers' claims pertain.

Convention 174

CONVENTION CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS

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 80th Session on 2 June 1993, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Occupational Safety and Health Convention and Recommendation, 1981, and the Chemicals Convention and Recommendation, 1990, and stressing the need for a global and coherent approach, and

Noting also the ILO Code of practice on the Prevention of major industrial accidents, published in 1991, and

Having regard to the need to ensure that all appropriate measures are taken to:

- (a) prevent major accidents;
- (b) minimize the risks of major accidents;
- (c) minimize the effects of major accidents, and

Considering the causes of such accidents including organizational errors, the human factor, component failures, deviation from normal operational conditions, outside interference and natural forces, and

Having regard to the need for cooperation, within the International Programme on Chemical Safety, between the International Labour Organization, the United Nations Environment Programme and the World Health Organization, as well as with other relevant intergovernmental organizations, and

Having decided upon the adoption of certain proposals with regard to the prevention of major industrial accidents, 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-second day of June of the year one thousand nine hundred and ninety-three the following Convention, which may be cited as the Prevention of Major Industrial Accidents Convention, 1993.

PART I. SCOPE AND DEFINITIONS

Article 1

1. The purpose of this Convention is the prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents.
2. This Convention applies to major hazard installations.
3. This Convention does not apply to:

- (a) nuclear installations and plants processing radioactive substances except for facilities handling non-radioactive substances at these installations;
- (b) military installations;
- (c) transport outside the site of an installation other than by pipeline.

4. A Member ratifying this Convention may, after consulting the representative organizations of employers and workers concerned and other interested parties who may be affected, exclude from the application of the Convention installations or branches of economic activity for which equivalent protection is provided.

Article 2

Where special problems of a substantial nature arise so that it is not immediately possible to implement all the preventive and protective measures provided for in this Convention, a Member shall draw up plans, in consultation with the most representative organizations of employers and workers and with other interested parties who may be affected, for the progressive implementation of the said measures within a fixed time-frame.

Article 3

For the purposes of this Convention:

- (a) the term "hazardous substance" means a substance or mixture of substances which by virtue of chemical, physical or toxicological properties, either singly or in combination, constitutes a hazard;
- (b) the term "threshold quantity" means for a given hazardous substance or category of substances that quantity, prescribed in national laws and regulations by reference to specific conditions, which if exceeded identifies a major hazard installation;
- (c) the term "major hazard installation" means one which produces, processes, handles, uses, disposes of or stores, either permanently or temporarily, one or more hazardous substances or categories of substances in quantities which exceed the threshold quantity;
- (d) the term "major accident" means a sudden occurrence – such as a major emission, fire or explosion – in the course of an activity within a major hazard installation, involving one or more hazardous substances and leading to a serious danger to workers, the public or the environment, whether immediate or delayed;
- (e) the term "safety report" means a written presentation of the technical, management and operational information covering the hazards and risks of a major hazard installation and their control and providing justification for the measures taken for the safety of the installation;
- (f) the term "near miss" means any sudden event involving one or more hazardous substances which, but for mitigating effects, actions or systems, could have escalated to a major accident.

PART II. GENERAL PRINCIPLES

Article 4

1. In the light of national laws and regulations, conditions and practices, and in consultation with the most representative organizations of employers and workers

and with other interested parties who may be affected, each Member shall formulate, implement and periodically review a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents.

2. This policy shall be implemented through preventive and protective measures for major hazard installations and, where practicable, shall promote the use of the best available safety technologies.

Article 5

1. The competent authority, or a body approved or recognized by the competent authority, shall, after consulting the most representative organizations of employers and workers and other interested parties who may be affected, establish a system for the identification of major hazard installations as defined in Article 3 (c), based on a list of hazardous substances or of categories of hazardous substances or of both, together with their respective threshold quantities, in accordance with national laws and regulations or international standards.

2. The system mentioned in paragraph 1 above shall be regularly reviewed and updated.

Article 6

The competent authority, after consulting the representative organizations of employers and workers concerned, shall make special provision to protect confidential information transmitted or made available to it in accordance with Articles 8, 12, 13 or 14, whose disclosure would be liable to cause harm to an employer's business, so long as this provision does not lead to serious risk to the workers, the public or the environment.

PART III. RESPONSIBILITIES OF EMPLOYERS

IDENTIFICATION

Article 7

Employers shall identify any major hazard installation within their control on the basis of the system referred to in Article 5.

NOTIFICATION

Article 8

1. Employers shall notify the competent authority of any major hazard installation which they have identified:

- (a) within a fixed time-frame for an existing installation;
- (b) before it is put into operation in the case of a new installation.

2. Employers shall also notify the competent authority before any permanent closure of a major hazard installation.

Article 9

In respect of each major hazard installation employers shall establish and maintain a documented system of major hazard control which includes provision for:

- (a) the identification and analysis of hazards and the assessment of risks including consideration of possible interactions between substances;
- (b) technical measures, including design, safety systems, construction, choice of chemicals, operation, maintenance and systematic inspection of the installation;
- (c) organizational measures, including training and instruction of personnel, the provision of equipment in order to ensure their safety, staffing levels, hours of work, definition of responsibilities, and controls on outside contractors and temporary workers on the site of the installation;
- (d) emergency plans and procedures, including:
 - (i) the preparation of effective site emergency plans and procedures, including emergency medical procedures, to be applied in case of major accidents or threat thereof, with periodic testing and evaluation of their effectiveness and revision as necessary;
 - (ii) the provision of information on potential accidents and site emergency plans to authorities and bodies responsible for the preparation of emergency plans and procedures for the protection of the public and the environment outside the site of the installation;
 - (iii) any necessary consultation with such authorities and bodies;
- (e) measures to limit the consequences of a major accident;
- (f) consultation with workers and their representatives;
- (g) improvement of the system, including measures for gathering information and analysing accidents and near misses. The lessons so learnt shall be discussed with the workers and their representatives and shall be recorded in accordance with national law and practice.

SAFETY REPORT

Article 10

1. Employers shall prepare a safety report based on the requirements of Article 9.

2. The report shall be prepared:

- (a) in the case of existing major hazard installations, within a period after notification prescribed by national laws or regulations;
- (b) in the case of any new major hazard installation, before it is put into operation.

Article 11

Employers shall review, update and amend the safety report:

- (a) in the event of a modification which has a significant influence on the level of safety in the installation or its processes or in the quantities of hazardous substances present;

- (b) when developments in technical knowledge or in the assessment of hazards make this appropriate;
- (c) at intervals prescribed by national laws or regulations;
- (d) at the request of the competent authority.

Article 12

Employers shall transmit or make available to the competent authority the safety reports referred to in Articles 10 and 11.

ACCIDENT REPORTING

Article 13

Employers shall inform the competent authority and other bodies designated for this purpose as soon as a major accident occurs.

Article 14

1. Employers shall, within a fixed time-frame after a major accident, present a detailed report to the competent authority containing an analysis of the causes of the accident and describing its immediate on-site consequences, and any action taken to mitigate its effects.

2. The report shall include recommendations detailing actions to be taken to prevent a recurrence.

PART IV. RESPONSIBILITIES OF COMPETENT AUTHORITIES

OFF-SITE EMERGENCY PREPAREDNESS

Article 15

Taking into account the information provided by the employer, the competent authority shall ensure that emergency plans and procedures containing provisions for the protection of the public and the environment outside the site of each major hazard installation are established, updated at appropriate intervals and coordinated with the relevant authorities and bodies.

Article 16

The competent authority shall ensure that:

- (a) information on safety measures and the correct behaviour to adopt in the case of a major accident is disseminated to members of the public liable to be affected by a major accident without their having to request it and that such information is updated and redisseminated at appropriate intervals;
- (b) warning is given as soon as possible in the case of a major accident;
- (c) where a major accident could have transboundary effects, the information required in (a) and (b) above is provided to the States concerned, to assist in cooperation and coordination arrangements.

Article 17

The competent authority shall establish a comprehensive siting policy arranging for the appropriate separation of proposed major hazard installations from working and residential areas and public facilities, and appropriate measures for existing installations. Such a policy shall reflect the General Principles set out in Part II of the Convention.

INSPECTION

Article 18

1. The competent authority shall have properly qualified and trained staff with the appropriate skills, and sufficient technical and professional support, to inspect, investigate, assess, and advise on the matters dealt with in this Convention and to ensure compliance with national laws and regulations.

2. Representatives of the employer and representatives of the workers of a major hazard installation shall have the opportunity to accompany inspectors supervising the application of the measures prescribed in pursuance of this Convention, unless the inspectors consider, in the light of the general instructions of the competent authority, that this may be prejudicial to the performance of their duties.

Article 19

The competent authority shall have the right to suspend any operation which poses an imminent threat of a major accident.

PART V. RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES

Article 20

The workers and their representatives at a major hazard installation shall be consulted through appropriate cooperative mechanisms in order to ensure a safe system of work. In particular, the workers and their representatives shall:

- (a) be adequately and suitably informed of the hazards associated with the major hazard installation and their likely consequences;
- (b) be informed of any orders, instructions or recommendations made by the competent authority;
- (c) be consulted in the preparation of, and have access to, the following documents:
 - (i) the safety report;
 - (ii) emergency plans and procedures;
 - (iii) accident reports;
- (d) be regularly instructed and trained in the practices and procedures for the prevention of major accidents and the control of developments likely to lead to a major accident and in the emergency procedures to be followed in the event of a major accident;

- (e) within the scope of their job, and without being placed at any disadvantage, take corrective action and if necessary interrupt the activity where, on the basis of their training and experience, they have reasonable justification to believe that there is an imminent danger of a major accident, and notify their supervisor or raise the alarm, as appropriate, before or as soon as possible after taking such action;
- (f) discuss with the employer any potential hazards they consider capable of generating a major accident and have the right to notify the competent authority of those hazards.

Article 21

Workers employed at the site of a major hazard installation shall:

- (a) comply with all practices and procedures relating to the prevention of major accidents and the control of developments likely to lead to a major accident within the major hazard installation;
- (b) comply with all emergency procedures should a major accident occur.

PART VI. RESPONSIBILITY OF EXPORTING STATES

Article 22

When, in an exporting member State, the use of hazardous substances, technologies or processes is prohibited as a potential source of a major accident, the information on this prohibition and the reasons for it shall be made available by the exporting member State to any importing country.

PART VII. FINAL PROVISIONS

Article 23

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

Article 24

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.
2. It shall come into force 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 25

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 26

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

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

Article 27

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 denunciations registered by him in accordance with the provisions of the preceding Articles.

Article 28

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 29

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 25 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 30

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

Recommendation 181

RECOMMENDATION CONCERNING THE PREVENTION OF MAJOR INDUSTRIAL ACCIDENTS

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 80th Session on 2 June 1993, and Having decided upon the adoption of certain proposals with regard to the prevention of major industrial accidents, 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 Prevention of Major Industrial Accidents Convention, 1993;

adopts this twenty-second day of June of the year one thousand nine hundred and ninety-three the following Recommendation, which may be cited as the Prevention of Major Industrial Accidents Recommendation, 1993.

1. The provisions of this Recommendation should be applied in conjunction with those of the Prevention of Major Industrial Accidents Convention, 1993 (hereafter referred to as "the Convention").

2. (1) The International Labour Organization, in cooperation with other relevant international, intergovernmental and non-governmental organizations, should arrange for an international exchange of information on:

- (a) good safety practices in major hazard installations including safety management and process safety;
- (b) major accidents;
- (c) lessons drawn from near misses;
- (d) technologies and processes that are prohibited for reasons of safety and health;
- (e) medical organization and techniques for dealing with the aftermath of a major accident;
- (f) the mechanisms and procedures used by competent authorities to give effect to the implementation of the Convention and this Recommendation.

(2) Members should, as far as possible, communicate information on the matters listed in subparagraph (1) above to the International Labour Office.

3. The national policy provided for in the Convention and the national laws and regulations or other measures to implement it should, as appropriate, be guided by the ILO Code of practice on the Prevention of major industrial accidents, published in 1991.

4. Members should develop policies aimed at addressing the major accident risks, hazards and their consequences within the sectors and activities excluded from the scope of the Convention by virtue of Article 1, paragraph 3, thereof.

5. Recognizing that a major accident could have serious consequences in terms of its impact on human life and the environment, Members should encourage the

establishment of systems to compensate workers as quickly as possible after the event and adequately address the effects on the public and the environment.

6. In accordance with the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office, a national or multinational enterprise with more than one establishment should provide safety measures relating to the prevention of major accidents and the control of developments likely to lead to a major accident, without discrimination, to the workers in all its establishments, regardless of the place or country in which they are situated.