

**THIRTY FIFTH SESSION
OF THE
TRIPARTITE COMMITTEE ON CONVENTIONS
(NEW DELHI – 22nd July, 2011)**

AGENDA



**GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
NEW DELHI**

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Item No. 1 - Approval of Minutes of the last Meeting.

The 34th Session of the Tripartite Committee on Conventions was held on 5th October 2010 under the Chairpersonship of Secretary (L&E). The Minutes of the meeting were circulated to all members on 8.11.2010. The Minutes of the Meeting are placed before the Committee for approval **(Annexure-I)**.

Item No.2 Follow up action on the Minutes of the last Meeting

Convention No. 182 (Worst Forms of Child Labour)

The Global Child Labour Conference was held in Hague in Netherlands in May, 2010 to discuss the commitment for a world free from worst forms of child labour by 2016 and a road map for achieving the elimination of the worst forms of child labour by 2016 was adopted in this Conference. The key suggested steps for getting the 2016 targets mentioned in the Report includes engaging all countries for ratification of Convention 182 (WFCL) by the end of 2010.

In the context of Child Labour free world by 2016, we feel that the process of elimination of child labour goes beyond ratification. It is more a question of adequate socio-economic responses and deep political engagement keeping in view the national conditions.

The issue of working out the modalities for Ratifying the ILO Convention 182 in line with our Constitutional Provisions is under consideration. The Inter-Ministerial under the Chairmanship of Additional Secretary (L&E) has been constituted to prepare the Road Map for elimination of Worst Form of Child Labour by 2016.

Convention No. 131 (Minimum Wage Fixing)

National Floor Level Minimum Wage

In order to have a uniform wage structure and to reduce the disparity in minimum wages across the country, concept of National Floor Level Minimum Wage was mooted on the basis of the recommendations of the National Commission on Rural Labour (NCRL) in 1991. Keeping in view the recommendation of NCRL and subsequent rises in price indices, the National Floor Level Minimum Wage was fixed at Rs. 35/- per day in 1996. The NFLMW has been revised from time to time primarily taking into account the increase in the Consumer Price Index Number for Industrial Workers from Rs. 35/- in 1996 to Rs. 40/- in 1998, further to Rs. 45/- in 1999, Rs. 50/- in 2002, Rs. 66/- w.e.f 1.02.2004, Rs. 80/- w.e.f 01.09.2007 and Rs. 100/- w.e.f 1.11.2009. Recently it has

been enhanced to Rs. 115/- per day w.e.f. 1.4.2011. The national floor level minimum wage applies to all employments including agriculture. This method has helped in reducing disparity among different rates of minimum wages to a great extent.

Status of Amendment Proposals to the Minimum Wages Act, 1948

It is informed that the draft Note for Cabinet was circulated for inviting comments/suggestions from all the Central Ministries/Departments and State Governments/Union Territory Administrations on January, 2010.

The PMO directed that the issue may first be discussed in the Committee of Secretaries (COS) and incorporate suitably the outcome of the deliberations of the COS in the draft note, and then undertake wider consultation with all the relevant Ministries as well as State Governments.

The matter has been considered by the Committee of Secretaries (COS) and as directed, an Inter-Ministerial Group (IMG) has been constituted to look in to the matter. The IMG has decided that the V.V. Giri National Labour Institute may carry out the impact study of the amendment proposals to the Minimum Wages Act, 1948. The Report has since been received and the matter has again been referred for consideration by the COS. The second meeting of the COS was held on 2nd May, 2011. Convention No. 131 (Minimum Wage Fixing) can be ratified only after the Minimum Wages (Amendment) Bill is enacted.

Agenda Item No. 3 - ILO Convention 138 (Minimum Age for entry to Employment)

ILO Convention No. 138 concerns with the Minimum Age for entry to Employment & Work. It was adopted by ILO in the International Labour Conference at its 58th Session in June, 1973. This Convention is one of the 8 Core Conventions of ILO referred to as fundamental or basic Human Rights Conventions and the ILO has been very active in promoting its ratification. This Convention has been ratified by 161 countries. The text of the Convention is available at **Annexure II**.

Each country ratifying this Convention undertakes to

- Pursue a national policy designed to ensure the effective abolition of child labour;
- Specify a minimum age for Entry to employment or work which will not be less than the ages of completion of compulsory schooling;
- To raise this progressively to a level consistent with the fullest physical and mental development of young people;
- Guarantee that the minimum age of entry to any type of employment or work, which is likely to compromise health, safety or morals of young persons shall not be less than 18 years.

Scope: The Minimum number of sectors which need to be covered under this would be (i) mining (ii) manufacturing (iii) construction (iv) electricity, gas and water (v) sanitary services (vi) transport, storage and communication (vii) plantation and commercial agriculture

Relaxations under Convention 138: For Non-hazardous occupations the proposed age is 15 years under Article 2(3). Relaxation can be taken under Article 2 (4) to keep it initially as 14 years in consultation with social partners.

UN Convention on the Rights of the Child: Article 32 (1) states parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. Government of India ratified this convention in 1992. The Convention provides a minimum age or minimum ages for admission to employment. By ratifying the Convention on the Rights of the Child, our Government is obligated "to review National and State legislation and bring it in line with provisions of the Convention".

Decent Work and the Millennium Development Goals – MDG 2: A child who is educated is more empowered to escape from poverty. The achievement of MDG 2 depends on national investments that are used wisely and efficiently. This includes the provision of skilled and motivated teachers, adequate teaching materials and school infrastructure, as advocated in the Dakar Framework for Action on Education for All (EFA). The right to compulsory schooling up to minimum age for employment, as reinforced by ILO Convention No. 138 on child labour, is essential. Through the Decent Work Agenda, the ILO contributes to the achievement of MDG 2 by promoting universally accessible, free and compulsory education; supporting rights of teachers and conditions that are conducive to the provision of quality education; working to eliminate child labour; promoting decent employment and training for people of working age; and encouraging child benefits and other social security measures for poor families. A gender mainstreaming approach focuses on the girl child.

International Repercussions of Non-Ratification of ILO Core Convention No- 138: As 160 countries have already ratified this convention, non-ratification by India is not commensurate with its international stature. DG ILO in 97th session of International Labour Conference had presented a determined case for ratification of 8 ILO core conventions by 2015. ILO came out with a Global Report on Child Labour in 2010. India has ratified 4 out of 8 core conventions. Ratified core conventions are 2 each in the area of Forced Labour & Discrimination. Global Child Labour Conference was held at Hague in May, 2010 which discussed various issues related to Child Labour and came out with a roadmap of elimination of Worst forms of child labour by 2016. The Roadmap has

since been adopted by ILO. ILO Declaration of 1998 on Fundamental Principles of Rights at Work, ILO Social Justice Declaration 2008, ILO Global Jobs Pact 2010, all stress for ratification of core ILO standards. In G-20 Forum ratification of ILO Core Convention is a regular theme. Although we stress for delinking Labour Standards & Trade but the developed countries are putting restrictions citing Core Labour Standards violations. At the International front export of Indian products are getting affected on the pretext of use of child labour. USDOL Report titled “List of Goods Produced by Child Labour or Forced Labour in accordance with Trafficking Victims Protection Reauthorization Act(TVPRA) of 2005 includes 18 Indian Products”.

ILO Declaration of 1998 on Fundamental Principles of Rights at Work: The Declaration which was adopted in 1998 commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. The Declaration makes it clear that these rights are universal, and that they apply to all people in all States - regardless of the level of economic development. It particularly mentions groups with special needs, including the unemployed and migrant workers. It recognizes that economic growth alone is not enough to ensure equity, social progress and to eradicate poverty.

Social Justice Declaration: The Declaration on Social Justice for a Fair Globalization stresses the fundamental principles of freedom of association and the right to collective bargaining, the elimination of all forms of forced labour, the effective abolition of child labour and the elimination of discrimination in employment and occupation as the Organization’s bedrock principles. The Declaration adopted this year underscores the particular significance of these rights as enabling conditions for the realization of the ILO’s four strategic objectives.

Global Jobs Pact 2010: The Global Jobs Pact of the ILO envisages close collaboration with UN and other organizations with a view to improve policy coherence and international coordination. The Decent Work Agenda and 2008 ILO Declaration on

Social Justice for a Fair Globalization are the guiding principles on which the overall framework of the Global Jobs Pact has been based.

Legal Provisions

In India the Legal Provisions in this area are as follows:

- Constitutional Provisions: As per Article 24 no child below the age of 14 years shall be employed to work in any factory or mine or engage in any other hazardous employment.
- Factory Act, 1948: No child who has not completed his 14 year shall be required or allowed to work in any factory.
- CL(Prohibition & Regulation) Act, 1986: The act prohibits the engagement of children below the age of 14 years in certain employments and regulated conditions of work in certain other employments.
- Plantation Act, 1951: For the welfare of labour, and to regulate the condition of work in plantations, the Act defines child as a person who has not completed his 14 years.
- Beedi & Cigar Workers Act, 1966 prohibits employment of children below the age of 14 years.
- Merchant Shipping Act, 1958: No person under 14 years of age shall be engaged or carried to sea to work in any capacity in any ship.
- Minimum Wages Act, 1948 also defines child as a person who has not completed 14 years.
- The Motor Transport Act, 1961 prohibits the entry into employment below the age of 14 years.
- The Juvenile Justice(Care & Protection of Children) Act, 2000 mentions “Juvenile” or “Child” means a person who has not completed eighteen years of age.

Government of India's stand on Convention 138: India has not ratified ILO Convention No. 138 fixing minimum age of employment as 18 years. Presently, as per Child Labour (Prohibition & Regulation) Act, 1986, children below the age of 14 years are prohibited to work in any of occupations set forth in Part A of the schedule or in any workshop wherein any of the processes set forth in Part B of the schedule. As of now, keeping the socio-economic conditions in the country in view a sequential approach is being followed in India for elimination of child labour in a comprehensive, holistic and integrated manner with the initial focus on hazardous occupations and processes which is secured through legislation. Government of India follows the policy of ratifying the ILO Convention only when the existing laws and practices are in full conformity with the provision of said convention.

Present Position of minimum age for employment of children in India: Already out of the listed areas, mining manufacturing, construction, plantation, warehousing and storage are banned for children below 14 years. We will have to include (i) electricity, gas and water (ii) sanitary services (iii) transport (iv) Commercial agriculture, in the list of specified occupations banned for children below 14 years. A very big area today is of children in the unorganised sector, agriculture, small scale industry (not covered by Factories Act) who have no age of entry. We have to examine whether the provisions of Convention 138 (Article 5(3) excluding family and small scale holdings producing for local consumption and not regularly employing hired workers from the purview of Convention 138 takes care of our existing reality. Otherwise we will have to identify areas which we do not want to be covered under Convention 138 and list them in the exclusion list as provided in Article 4 in consultation with our social partners.

Difficulties: In view of the Socio-Economic conditions prevailing in our country, and a large percentage of our workforce engaged in informal economy and the unorganized sector, it is difficult to monitor the age of entry of children in employment in these areas. A consensus has to be built amongst the various Social Partners, States, NGOs and Ministries in order to find solutions to the difficulties in tackling child labour.

An **Inter-ministerial Meeting on C-138** took place under the Chairmanship of Secretary (L&E) on 6/7/2011. There was general support for going ahead with ratification of this Convention by keeping the minimum age of entry into employment as 14 years. Certain Sectors (i) mining (ii) manufacturing (iii) construction (iv) electricity, gas and water (v) sanitary services (vi) transport, storage and communication (vii) plantation and commercial agriculture, are compulsorily to be brought under the scope of this convention if we want to ratify. Four of them are already covered in the Child Labour (Prohibition & Regulation) Act, 1986 and the remaining (i) electricity, gas and water (ii) sanitary services (iii) transport (iv) Commercial agriculture has to be included in the list of prohibited occupation/ process by the technical Committee. It is for consideration of COC whether we may go ahead with initiating the process of ratification of C138. It is also for consideration whether we may limit our coverage to these compulsory sectors and those which are already prohibited in our Child Labour (Prohibition & Regulation) Act, 1986. COC may also consideration for the entry age of 14 years.

Agenda Item No. 4 - Convention No. 182 (Worst Forms of Child Labour) – examination of ratification prospects

The Convention provides that each member state shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. All children under the age of 18 years come under the purview of the Convention.

For the purpose of this Convention, the term worst form of child labour comprises:

- a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The Convention requires each member to design and implement programmes of action to eliminate as a priority the worst forms of child labour. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate. Thrust has been laid on preventing the engagement of children in the worst forms of child labour, ensuring their rehabilitation and social integration, access to education and taking special care of the girl child.

The text of the Convention is available at **Annexure III**

Ratification prospects for Worst Forms of Child Labour Convention No. 182

India, in spite of very focussed strategies initiatives and approaches for elimination of child labour - education for all, RSBY, NREGA, legislations on child labour in hazardous jobs, bonded labour and trafficking, national policy, rehabilitation of child labour, enhanced skill initiative etc – has not yet ratified the Child Labour Conventions primarily because we are moving in a phased manner.

The worst form of child labour are already prohibited under various Acts such as Bonded Labour System (Abolition) Act, 1976, Suppression of Immoral Traffic in Women and Girl Act- 1956, The prevention of illicit Traffic in Narcotic Drugs and Psychotropic Substance Act, 1988 and Child Labour (Prohibition & Regulation) Act, etc. However, certain amendments in Child labour prohibition and Regulation Act, 1986 are being processed to facilitate ratification of Convention No. 182.

The Global Child Labour Conference was held in the Hague in Netherlands in May, 2010 to discuss the commitment for a world free from worst forms of child labour by 2016 and a road map for achieving the elimination of the worst forms of child labour by 2016 was adopted in this Conference. The key suggested steps for getting the 2016 targets mentioned in the Report includes engaging all countries for ratification of Convention 182 (WFCL) by the end of 2010. Out of total of 183 members State of ILO 172 countries have already ratified the ILO Convention 182.

In the context of Child Labour free world by 2016, we feel that the process of elimination of child labour goes beyond ratification. It is more a question of adequate socio-economic responses and deep political engagement keeping in view the national conditions. The ILO can play an important role towards advocacy and mobilization.

Out of the above four categories of work covered under article 3 of the Convention C-182, the first three categories are already banned in India. Slavery, debt bondage and forced or compulsory labour which are other (Abolition) Act, 1976. Procuring or offering of a child for prostitution, for the production of pornography or for

pornographic performances and production and trafficking of drugs has been banned through Indian penal code (IPC), Immoral Trafficking Prevention Act, 1985.

The issue of working out the modalities for Ratifying the ILO Convention 182 in line with our Constitutional Provisions is under consideration. The Inter-Ministerial Meeting under the Chairmanship of Additional Secretary (L&E) has been constituted to prepare the Road Map for elimination of Worst Form of Child Labour by 2016.

Agenda Item No.5 - Maritime Labour Convention, 2006

The 94th (Maritime) Session of the International Labour Conference (ILC) (Geneva, February 2006) adopted the Maritime Labour Convention, 2006 (MLC, 2006), an important new international agreement that consolidates almost all of the 70 existing ILO maritime labour instruments (out of which only 3 have been ratified by India i.e. Convention. Nos. 16, 22 and 147) in a single modern globally applicable legal instrument. The Maritime Labour Convention, 2006 provides comprehensive rights and protection at work for the world's more than 1.2 million seafarers. The Convention sets out seafarers' rights to decent conditions of work on a wide range of subjects, and aims to be globally applicable, easily understandable, readily updateable and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO).

. The MLC, 2006, establishes comprehensive minimum requirements for almost all aspects of working conditions for seafarers. It seeks to

- Set minimum requirements for seafarers to work on a ship;
- Address conditions of employment, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection;
- Promote compliance by operators and owners of ships by giving governments sufficient flexibility to implement its requirements in a manner best adapted to their individual laws and practices; and
- Strengthen enforcement mechanisms at all levels, including provisions for complaint procedures available to seafarers, the shipowners' and shipmasters' supervision of conditions on their ships, the flag States' jurisdiction and control over their ships, and port state inspection of foreign ships.

The text of the Convention being quite bulky is not annexed. It is available in the ILO website www.ilo.org under the heading Convention.

The Convention will come into force only when there have been registered ratification by at least 30 member countries with a total share in gross tonnage of ships of 33%. Till now only 4 countries have ratified the Convention.

When the MLC, 2006 comes into force and is effectively implemented in all countries with a maritime interest:

- All seafarers, whatever their nationality, serving on a ship to which the Convention applies, whatever flag it flies, will have decent working and living conditions and an ability to have concerns addressed where conditions do not meet the requirements of the Convention;
- Various mechanisms in the Convention will serve to ensure, to the greatest extent possible, that the Convention requirements are respected, even on the ships that fly that flag of countries that do not ratify the Convention.
- Governments and ship owners committed to establishing decent working and living conditions for seafarers will have a level playing field with strong protection against unfair competition from substandard ships.

The ILO has an action plan based upon the advice of the Officers of the 94th (Maritime) Session of the ILC regarding a strategic approach to follow-up activities to be undertaken by the ILO after the adoption of the MLC, 2006. The action plan inter-alia focuses on achieving the goal of rapid widespread ratification by countries with significant maritime interests (flag States; port States and labour-supplying States).

In accordance with Article 19 of the ILO Constitution the Maritime Labour Convention, 2006 was placed before both Houses of Parliament in 2007. We are following up on the possibility and necessity of ratifying the MLC, 2006 in consultation with all stakeholders viz. the Department of Shipping and the Directorate General of Shipping, Mumbai. A meeting was held between the ILO and MOLE to discuss the possibility of ratification of the Convention by India. During 2009 a National Tripartite Seminar on Maritime Labour Standards was also conducted. Inter-ministerial consultations are being conducted in this connection.

DG Shipping has informed that the following steps on the regulatory legal frame works have to be initiated for the ratification and implementation of the Convention.

- Amendment to the Merchant Shipping Act, 1958.
- Amendment to Merchant Shipping (Medical Examination) Rules, 2000.
- Amendment to Merchant Shipping (Recruitment and Service Providers) Rules, 2005.
- Amendment to Merchant (Shipping Accommodation) Rules.
- Formulation of Merchant Shipping (Maritime Labour) Rules.
- Submission of Draft Cabinet Note.

The draft amendment to the Accommodation and Medical rules have been completed along with that of the Amendment of Merchant Shipping Act and Draft Cabinet Note. Amendment to the RPS Rules and formulation of new Maritime Rules are in progress. The draft amended Rules and Acts will be forwarded to the Ministry of Shipping shortly.

Even effort is being made to ratify the convention at the earliest so as to get the advantage of complete 12 month in implementing the convention so that the Indian seafarers are not subject to any hardship during their service on board the ships in foreign ports and foreign seas.

Agenda Item No. 6- Convention No. 188 (Work in the Fishing Sector)

The ILO Convention No. 188 on Work in the Fishing Sector was adopted at the 96th Session (June, 2007) of the International Labour Conference. The Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations and it will come into effect once ratified by 10 ILO member states (including 8 coastal states). The text of the Convention being quite bulky is not annexed. It is available in the ILO website www.ilo.org under the heading Convention.

The Convention provides broad coverage for all those working in the fishing sector, including the self-employed and those paid on the basis of the share of the catch. It has the flexibility to ensure wide-scale ratification and implementation; and include new provisions on safety and health to reduce high rate of accidents and fatalities. The Convention provides protection for a greater portion of people, particularly those working on smaller vessels. The objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security. Its provisions are also aimed at ensuring that fishing vessels are constructed and maintained so that living conditions on board are suitable for long periods often spent at sea by these workers.

The Convention provides for certain flexibility, such as a new innovative legal mechanism that will allow member countries to progressively implement certain parts of the provisions. It also provides for the right of port States to take action against foreign flag fishing vessels in their ports when the vessels do not comply with the requirements of the Convention.

In accordance with Article 19 of the ILO Constitution the Convention No. 188 concerning work in the fishing sector was placed before the Parliament in December, 2008.

A representative from Ministry of Labour & Employment participated in the Asian-Regional Seminar on the ILO work in fishing Convention No. 188 held at Seoul in September, 2008. The seminar allowed the participants to understand the provisions of the Convention and Recommendation. It also gave the ILO the opportunity to have a better understanding of the particular situations and concerns in the region. Meeting was held in the Ministry with all the coastal State Governments to hold discussion on the provisions of the Convention. The importance of Regional Consultations was emphasized during the meeting as this Convention gives a roadmap to approach the issues facing the Fishing sector in India. It was decided in the meeting that State Governments should hold State level consultations with the concerned stakeholders and send their comments and feedback to Ministry of Labour & Employment. Consultations are on with the stakeholders and State Governments have been requested to send their comments/feedback.

The nodal Ministry of fisheries is D/o Animal Husbandry, Dairying & Fisheries (DAHDF), M/o Agriculture. DG Shipping is concerned with safety issues of fishing vessels as safety at sea is the mandate of DG Shipping.

The nodal Ministry/Department i.e. D/o Animal Husbandry, Dairying and Fisheries was consulted by us to explore the possibility of ratification of the Convention No. 188 concerning Work in the Fishing Sector and related legislation in this regard. On the issue of feasibility of ratification of ILO Convention No. 188 concerning Work in the Fishing Sector, D/o Animal Husbandry, Dairying & Fisheries informed that a comprehensive National Level legislation incorporating the provisions and extending the scope of the Convention to cover all the fish workers would be required after due consultations with all stakeholders especially State Governments and decision on agreeing to ILO convention – 188 should perhaps be taken after an in depth examination of issues regarding subsistence fishing mainly by small scale fishers, diverse ecologies, long coastlines and different fishing practices etc, in our country.

M/o Labour & Employment convened an Inter-Ministerial Meeting on the feasibility of ratification of ILO Convention No. 188 concerning Work in the Fishing Sector on 20th May, 2010 with the representatives of D/o Animal Husbandry, Dairying & Fisheries, D.G Shipping (Mumbai), and coastal State Government.

To move forward on the issue, a preparatory workshop on Work in Fishing Sector Convention (C-188) was organized jointly by the Government of India – Ministry of Labour & Employment and Ministry of Agriculture (Department of Animal Husbandry, Dairying & Fisheries) and the ILO in Kochi (31st August – 1st September, 2010) with all stakeholders to ascertain their views. DG Shipping (Mumbai) also participated in this workshop.

A second preparatory workshop on Work in Fishing Sector Convention (C-188) was organised jointly by the Government of India – Ministry of Labour & Employment and Ministry of Agriculture (Department of Animal Husbandry, Dairying & Fisheries) and the ILO at Vishakhapatnam over two days – 25-25 January, 2011 with the objective of ascertaining the views of more numbers of fish Employers/Boat Owners representatives as very few numbers of fish Employers/Boat Owners representatives attended the Kochi Workshop.

Subsequent to conduct of Kochi workshop, M/o Labour & Employment has constituted a Task Force (Gap Analysis) from participants representing Government Departments, Fisheries Workers and Employers Organisations, Fisheries Institutions and NGOs. The first meeting of the Task Force for Gap Analysis of Work in Fishing Sector Convention (C-188) was convened on 18th November, 2010 in M/o Labour & Employment, New Delhi.

On the recommendation of Task Force, the process of engaging the Consultant/Expert for gap analysis of Work in Fishing Convention (C-188) has been initiated by M/o labour & Employment in consultation with D/o Animal Husbandry, Dairying & fisheries and ILO.

Based on the Technical Evaluation of the proposals of the firms on 10th May, 2011, the Evaluation Committee comprising officers from D/o Animal Husbandry, Dairying & Fisheries, M/o Labour & Employment and ILO-SRO, New Delhi, the Clarus Law Associates is found to be most suitable as its Technical Proposal is adhering to stipulated Terms of Reference.

ILO-SRO, New Delhi is in the process of engaging M/s Clarus Law Associates for carrying out the proposed gap analysis and drafting a new legislation making relevant amendments in conformity with the provisions of Convention No. 188.

Agenda Item No. 7 - Convention No. 155 (Occupational Safety & Health)

The provision of decent, safe and healthy working condition and environment is imperative for creating a positive impact on socio-economic development as well as for the well being of the employee & society, at large. Maintenance of high standards of occupational safety and health is closely related to productivity and good employee-employer relationship. It is an important aspect of an organisations' smooth and effective functioning.

The Occupational Safety and Health Convention No. 155 was adopted by the ILO in 1981 to prevent accidents and injury to health of workers and minimize as far as practicable the causes of hazards inherent in the work environment. The Convention is applicable to workers in all branches of economic activity. It provides that the ratifying member states will formulate, implement and periodically review a coherent national policy on Occupational Safety and Health and Environment at the Workplace. The objective of the Convention is to safeguard the interests of workers in hazardous jobs, prevent accidents, encourage greater cooperation and coordination between the workers and employers to achieve better OSH standards. Emphasis has inter-alia been laid on periodical inspections to secure enforcement of relevant laws, safeguarding the interests of workers, holding of inquiries and penalties on defaulters, proper design, manufacture and testing of machinery to protect the health of workers and appropriate training to workers on OSH. (The text of the Convention is at **Annexure IV**).

The major provisions of the Convention are by and large covered under the existing legislations. The Government has also adopted the National policy on Safety, Health & Environment at the workplace in Feb 2009, as a major initiative towards this direction. The status of various laws and regulations in this regard is given below:-

- 1) A number of laws have been enacted to regulate the health, safety, welfare and working conditions of workers in factories mines, ports and docks. We have the Factories Act, 1948, the Mines Act, 1952 and the Dock Workers (Safety, Health and Welfare) Act, 1986. The Child Labour (Prohibition and Regulation Act, 1986 prohibits

employment of children below the age of 14 years in factories, mines and hazardous occupations.

2) The important legislations concerning OSH viz. the Factories Act, 1948 and the Mines Act, 1952 are being administered by the Directorate General of Factory Advice Service and Labour Institutes (DGFASLI) and Directorate General of Mines Safety (DGMS) functioning under the Ministry of Labour & Employment, Government of India. The primary objective of these legislations is to, prevent accidents and hazardous occurrences and improve the working conditions of employees. Both the Acts provide for periodical inspection of factories and mines by qualified staff, certification of machinery, measures for securing health and safety of workers in hazardous processes and welfare and social security measures. There are provisions of penalties (fine and imprisonment) in cases of violations observed.

3) The National Policy on Safety, Health and Environment at the Workplace has been adopted in February, 2009. The policy seeks to achieve the following goals:-

- a) Providing a statutory framework on OSH in respect of all sectors of economic activities, designing suitable control system of compliance, enforcement and incentives for better compliance.
- b) Providing administrative and technical support services.
- c) Providing a system of incentives to employers and employees to achieve higher health and safety standards.
- d) Establishing and developing the research and development capability in emerging areas of risk and effective control measures.
- e) Developing a proper interface between the work and the human resource through a system of skill improvement.
- f) Focusing prevention strategies and monitoring performance through improved data collection system on work related injury and disease.
- g) Developing and providing required technical manpower and knowledge in the areas of safety, health and environment at workplaces in different sectors.

- h) Promoting inclusion of safety, health and environment, improvement at workplaces as an important object in other national policy documents.

The Action Programme to achieve the above goals includes effective enforcement, development of National Standards, ensuring full compliance, increasing awareness on OSH, research and development, skill development and training, data collection, periodical guidance, providing suitable incentives and periodical review.

- 4) In India, the organizations such as Directorate General of Factory Advice Service and Labour Institutes (DGFASLI), Directorate General of Mines Safety (DGMS), Bureau of Indian Standards (BIS), Oil Industry Safety Directorate and other Professional Organizations provide information and advisory service on occupational safety and health matters. These organizations also conduct training programmes and applied research.

Article 1(2) of the convention permits, after consultation with representatives of workers and employers organizations, the **exclusion**, in part or in whole of particular branches of economic activity in respect of which special problems of a substantial nature arise. This flexibility of the convention in terms of partial coverage of the economic activities can be assessed for ratifying the convention which can be extended further for the benefit of other informal sector workers. There are many countries which have resorted to partial coverage of economic activities while ratifying the convention. Thus with the flexibility clauses, India can positively move towards the ratification of this convention.

Keeping in view this scenario as indicated above the possibility of ratification of the Convention No. 155 (Occupational Safety & Health) may be considered by the Committee.

Agenda Item No. 8 - Convention No. 87 (Freedom of Association and Protection of the Right to Organize) & Convention No. 98 (Right to Organise and Collective Bargaining)

Convention No.87

Convention No.87 concerning Freedom of Association and Protection of the Right to Organise was adopted in 1948. This Convention provides for the right of workers and employers, without any distinction, to establish and join organizations of their own choosing without previous authorization. Their organizations have the right to form or join federations and confederations, including those at the international level. These organizations or federations may not be liable to arbitrary dissolution or suspension by an administrative authority. The only exception provided for in the Convention is the right to organize “without distinction whatsoever” is the armed forces and the police, to whom special rules and regulations may apply. A copy of the Text of the Convention placed at **Annexure-V**.

Convention No.98

Convention No.98 concerning **Right to Organise and Collective Bargaining** was adopted in 1949. The Convention aims to protect the right to organize and to promote voluntary collective bargaining. The guarantees provided for under these two Conventions are by and large available to workers in India by means of constitutional provisions, laws and regulations and practices. A copy of the Text of the Convention and Ratification Information is placed at **Annexure-VI**.

Reasons for non-ratification of the conventions

The main reason for non-ratification of the above two Conventions is due to certain restriction imposed on the Government servants. However, Freedom of expression, freedom of association and functional democracy are guaranteed by our Constitution. The Government has promoted and implemented the principles and rights

envisaged under these two Conventions in India and the workers are exercising these rights in a free and fair democratic society. Our Constitution guarantees job security, social security and fair working conditions and fair wages to the Government servants. The Government employees in our country “enjoy exceptionally high degree of job security flowing from article 311 of our constitution”. They have also been provided with alternative grievance redressal mechanisms like Joint Consultative Machinery, Central Administrative Tribunal etc. Hence, our stand has been that this section of the workforce cannot be said to have been deprived of the right of association.

It may also be noted that Unionization of the Government servants in India, as provided for in the conventions, is not possible in a highly politicized trade union system of the country. Moreover, the unorganized workers, both in rural and urban areas that constitute more than 80% of the total work force in India, are not adequately protected with facilities for the effective bargaining collectively.

The ratification of Conventions Nos. 87 & 98 would involve granting of certain rights that are prohibited under the statutory rules, for the Government employees, namely, to strike work, to openly criticize Government policies, to freely accept financial contribution, to freely join foreign organizations, etc.

Status of Conventions 87 and 98 in India

As far as Convention 98 is concerned although it has been ratified by many countries, we have not been able to ratify it on account of technical reasons mentioned above. We are in regular discussion with ILO on the possibility of ratifying Convention 98. An inter-ministerial meeting to discuss the possibility of ratifying ILO Convention Nos. 87 concerning Freedom of Association and Protection of the Right to Organise, 1948 and 98 concerning Right to Organise and Collective Bargaining, 1949 was also held under the Chairmanship of Shri A.C. Pandey, Joint Secretary on 11th May, 2011. During the meeting, DOPT reiterated the stand that formation of union, right to strike, etc. are not permitted to the Government Employees. However, he assured that he will re-examine the issue of ratifying Convention No.98.

The challenges being faced by the Member states on Ratification and promotion of fundamental and governance ILO Conventions are due to non-conformity with national laws and lack of technical assistance. The process of ratification of these conventions should be a gradual one and adequate time should be given to the Member States for creating favourable conditions for ratification, taking into account the socio-economic realities of each Member state. We may adopt a more pragmatic and realistic approach for ratification and promotion of these conventions through creating awareness, building capacities of the constituents, advocacy, training and technical cooperation as well as through tripartite consultation and collaboration with the ILO and other international organizations.

Agenda Item No. 9 - Convention No. 181 (Private Employment Agencies) 1997

The Convention No.181 concerning Private Employment Agencies was adopted by the General Conference of the International Labour Organization in its Eighty-fifth Session on 3 June 1997. It replaces the Fee-Charging Employment Agencies Convention (Revised), 1949 as a follow-up to decision the International Labour Conference at its 81st Session, 1994 to revise the Fee-Charging Employment Agencies Convention (Revised), 1949. The revision becomes imperative considering the very different environment in which private employment agencies operate, when compared to the conditions prevailing when the abovementioned Convention on the Fee-Charging Employment Agencies Convention (Revised), 1949 was adopted. The new convention recognizes the role which private employment agencies may play in a well functioning labour market as well as the need to protect workers against abuses taking into account the importance of flexibility in the functioning of labour markets. (The text of the Convention is at **Annexure VII**).

The convention was adopted recognizing the need to guarantee the right to freedom of association and to promote collective bargaining and social dialogue as necessary components of a well-functioning industrial relations system. This convention should be implemented in alignment with the provisions of the Employment Service Convention, 1948; the provisions of the Forced Labour Convention, 1930; the Freedom of Association and the Protection of the Right to Organise Convention, 1948; the Right to Organise and Collective Bargaining Convention, 1949; the Discrimination (Employment and Occupation) Convention, 1958; the Employment Policy Convention, 1964, the Minimum Age Convention, 1973; the Employment Promotion and Protection against Unemployment Convention, 1988, and the provisions relating to recruitment and placement in the Migration for Employment Convention (Revised), 1949, and the Migrant Workers (Supplementary Provisions) Convention, 1975.

2. Basic information

1. International organisation that developed the instrument: ILO
2. Year in which the instrument was adopted: 1997
3. Date of entry into force: 10.05.2000
4. Year/s in which the instrument was revised: Nil
5. Number of ratifying countries: 23 ratifications (as per the Application of International Labour Standards 2011 (II))

3. Description

- Private employment agencies play an important role in the functioning of contemporary labour markets. They act as intermediaries in modern labour markets, allowing enterprises greater flexibility to increase or decrease their workforces, while ensuring for the workers sufficient security in terms of job opportunities and employment standards, including pay, working time and training.
- The private employment agency industry has grown at an incredible pace over the past three decades due to the increasing need to provide workers and services to a growing and flexible labour market. User enterprises hire temporary agency workers to be able to rapidly adjust to the shifting economic realities. Since mid-2008, enterprises have used this pressure-valve function to lay off temporary workers, while often leaving their core workforce intact.
- Requires ratifying states to ensure that private employment agencies respect principles on non-discrimination.
- Provides for cooperation between private and public employment services, general principles to protect jobseekers against unethical or inappropriate practices, and protection of workers under subcontracting arrangements and workers recruited from abroad. Also applies to temporary work agencies.

- The purpose of this Convention is to allow the operation of private employment agencies as well as to protect the workers using their services.
- Balances enterprises' needs for labour flexibility with workers' needs for employment stability, a safe work environment, decent conditions of work and social security
- Convention 181 replaces the **Fee-Charging Employment Agencies Convention of 1949 (No. 96)**, effectively abandoning the ILO's restrictive or prohibitive policy toward private employment agencies and encouraging the effective operation of services provided by private employment agencies, and especially temporary work agencies.

4. ILO on Convention No.181

- Countries that have not yet ratified Convention No. 181 are encouraged to do so, as its implementation can be an engine for job creation, structural growth, improved efficiency of national labour markets, better matching of supply and demand for workers, higher labour participation rates and increased diversity. It also sets a clear framework for regulation, licensing and self-regulation, thereby encouraging reliability; ensuring effective protection of workers against unfair practices; discouraging human trafficking; and promoting cooperation between public and private employment services. Finally, ratification could help to promote and implement the **Decent Work Agenda by ensuring protection of the rights and working conditions of agency workers.**

5. Workshop to promote ratification of the Private Employment Agencies Convention, 1997 (No. 181)

5.1 Geneva, 20-21 October 2009: In accordance with a decision taken by the Governing Body of the International Labour Office (301st Session, March 2008), the Workshop to promote ratification of the Private Employment Agencies Convention, 1997 (No. 181) was held at the ILO, Geneva, from 20 to 21 October 2009. The purpose of the Workshop was to promote ratification of the Convention by ILO member States in general, and especially in major sending and receiving countries of migrant workers and countries where the private employment agency market is developing.

6. India's Stand on Convention No.181

- India has ratified all other Conventions (i.e., **Convention No. 88 concerning Employment Service Convention, 1948; Convention No.122 concerning Employment Policy Convention, 1964 and Convention No. 142 concerning Human Resources Development Convention, 1975**) concerning employment except Convention No.181.
- Convention No. 181 has received the least number of ratification among all the four conventions concerning employment.
- India has not ratified this convention. The main obstacles coming in the way of ratification of this convention by India is the peculiar labour market situation in the country, i.e., existence of large unorganised sector and lack of reliable data base on these agencies.
- Various existing laws concerning these agencies are not in tune with various provisions of the ILO convention No.181.
- Article 7(1) of the Convention provides that private employment agencies shall not charge directly or indirectly in whole or in part, any fees or costs to workers. This does not seem to be feasible in Indian conditions and not in tune with the provisions of Emigration Act.
- Article 1(b) of the convention ,i.e., “services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal

person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks” seems to be overlapping with the provisions of Contract Labour Act.

7. Private Placements agencies working in India

There are different types of Private Placements Agencies working in India. On the basis of their regulation/coverage these can be broadly classified into the following four categories.

- (i) Manpower Export and Placement Agencies- These are covered under Immigration Act, 1983
- (ii) Labour Contractors- These are covered under Contract (Abolition & Regulation) Act, 1970 and the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- (iii) Private Securities Agencies – Governed by Private Security Agencies (Regulation) Act, 2005
- (iv) Private Placement Agencies catering to specific needs of the employer/labour market mainly operating for domestic needs and not covered by any specific Act – Some States/UTs register them under their Shop & Establishment Act

8. Status of Convention 181 in India: Attempt towards Ratification

8.1 Committee on Private Placement Agencies: The question of brining a legislation to regulate private placement agencies has been considers at various fora. A Committee on Private Placement Agencies was constituted under the Chairmanship of Principal Secretary (L&E), Government of Gujarat with representatives from Governments of Maharashtra, Rajasthan, Punjab and DGE&T to evolve guidelines on operation of Placement Agencies. Accordingly, the guidelines on regulation of Private Placement Agencies were finalized in the meeting of the said committee held on 26.9.2003 and the Committee unanimously recommended for its adoption and thereafter, these guidelines were issued to all the sates/UTs by DGE&T on 30.10.2003.

It is now left to the respective State Governments to frame regulation and/or guideline for monitoring the private placement agencies keeping in view the current position and local needs. A copy of the guidelines on operation of Private Placement Agencies in India is placed at **Annexure-VIII**.

8.2 Meeting on 30.03.2011: A meeting was also held in the Office of JS (AP) to discuss the ratification possibility of ILO Convention No. 181 concerning Private Employment Agencies, 1997 on 30.03.2011. Dir (V), Shri Anand Vardhan, Director MOIA and Shri Khan, Dir (Emp) were present in the meeting. During the meeting, discussions proceeded by reviewing the present status in our country with reference to the various articles of the constitution. It was decided that once again a meeting will be held after reviewing the status in the respective Ministries/Departments.

8.3 What needs to be done?

1. State Governments/Union Territory Administrations may be addressed to develop a mechanism for maintaining reliable data about number of agencies and the extent of the problems posed by these agencies.
2. The States/UTs should segregate the Private Placements Agencies falling under the first three categories and the fourth category.
3. The experience of other countries similar to India in the field, who have ratified the said convention/formulated a legislation to regulate such agencies, may be studied/analyzed.
4. Only after the reliable information about the fourth category is available, the extent of problems posed by these agencies are known and the experience of other countries has been studied the ratification of the said convention or process of enacting any Central legislation for regulating such agencies may be considered.

5. It may also be stated that the problems pertaining to or reported to be created by private placement agencies such as cheating extortion, exploitation, trafficking, etc, are covered under various existing penal provisions of India Penal Code and can be addressed accordingly.
6. We may support the view of (a) the workers that 'Private employment agencies should provide : agency workers with vocational training; promote a shift from temporary agency contracts to fixed-term or open-ended contracts and agency work should not replace permanent employment (b) the employer's and workers view that there is a need to promote co-operation with public employment service given in the report of the workshop to Promote Ratification of Private Employment Agencies Convention 1997 (No.181)held from 20-21 October, 2009 in Geneva.

**Minutes of the 34th Session of Tripartite Committee on Conventions (COC)
held in New Delhi on 5.10.2010**

The meeting was chaired by Secretary (L&E). The list of participants is at Annexure.

1. Secretary (L&E) welcomed all participants to the meeting. Shri A.C.Pandey, Joint Secretary presented the brief of Agenda Items being taken up for discussion. He recalled the two notable achievements since the last meeting i.e. ratification of Convention No. 127 (Maximum Weight) by India in March, 2010 and adoption of Recommendation No. 200 concerning HIV/AIDS and the World of Work by International Labour Conference in June, 2010. He indicated the progress made towards ratification of various Conventions He stated that it had emerged from tripartite discussions on Convention 155 (Occupational Safety and Health) that the possibility of ratifying the Convention may be considered after applying the exclusion clauses for specific sectors, and the matter was in process. In respect of Convention 170 (Chemicals) inter-Ministerial discussions were held and detailed Article-wise comments had been sought from concerned Ministries. The amendments to the Building and Construction Workers Act were under process to facilitate ratification of Conventions 162 (Asbestos) and 167 (Safety & Health in Construction).. A Workshop of all stakeholders was recently held in Kochi in respect of Fishing Convention No. 188 and a Task Force has been constituted for conducting gap analysis. DG (Shipping) was engaged in moving necessary amendments to Legislation to enable ratification of the Maritime Labour Convention, 2006. The ILO Report on Decent Work for Domestic Workers drafted on the basis of deliberations in last ILC had been forwarded to social partners for comments and a Task Force constituted by the Ministry was deliberating on introduction of welfare measures for domestic workers. The important Agenda Item for discussion was Convention No. 182 (Worst Forms of Child Labour). The Law Ministry had approved the proposal for amendment of the Child Labour (Prohibition & Regulation) Act and the matter was under consideration for moving the amendments in Parliament. The Agenda Item on ILO Recommendation No. 200 (HIV/AIDS and the World of Work) highlighted the issues mentioned in the Instrument to guide workplace policies and programmes on HIV/AIDS. The Agenda Item on implementation of ratified Convention No. 144 (Tripartite Consultations) had been included on the request made by BMS to facilitate discussions on non-compliance of tripartism at the State level.

2. Thereafter the Agenda Items were taken up for consideration. Under **Agenda Item No. 1 the Minutes of last COC meeting held on 12.2.2010 were adopted by the Committee members.**

3. In respect of **Agenda Item No.2 (Follow up action on the Minutes of the last COC meeting held on 12.2.2010)** the views expressed by members were as follows:-

Convention 127 (Maximum Weight)

4. All COC members especially representatives of Trade Unions appreciated the efforts of MOLE for ratification of ILO Convention No. 127 concerning Maximum Weight and welcomed the ratification.

Convention No. 131 (Minimum Wage Fixing)

5.1 The representatives of Trade Unions unanimously spoke on the urgency and need for early ratification of Convention No. 131 concerning Minimum Wages Fixing by India without insisting on amendment of the Minimum Wages Act. The representative of BMS stated that priority had to be given for ratification of the Convention as assurance of minimum wages was the right of all workers. Minimum wages differ widely from state to state and from sector to sector. The importance of having a universal minimum wage for all workers was emphasised.. He stated that the National floor level minimum wage of Rs. 100 per day was not sufficient as compared to the norms fixed by the 15th ILC and should be increased keeping in view the rise in living costs. Enforcement of minimum wages was another issue that required priority action as violations were rampant and bare subsistence wage is not guaranteed to major part of the workforce. He highlighted that the Committee on Fair Wages of 1947 had recommended progressive transformation through three wage levels: Minimum Wages, Fair Wages and Living Wages for the entire workforce of the Nation

5.2 The representative of BMS also requested for review of all unratified ILO Conventions by Government to examine their scope and status of ratification. He also requested that separate Directorates should be set up by the Ministry for large sectors of workforce.

5.3 The representative of INTUC emphasised on the need for a comprehensive and uniform Minimum Wage Policy as presently there was wide variation in minimum wage rates across States.

5.4 It was stated by the representative of AITUC that the matter regarding ratification of Convention No. 131 was getting involved in procedural delays. There was no established norm of fixing minimum wages in the country. As a result minimum wages differed from region to region and the unorganised sector workers were the worst affected. A recent example was the plight of workers engaged in Commonwealth Games sites who were denied minimum wages.

5.5 The representatives of CITU drew attention to the variation in stand reported in the Agenda of the last COC meeting and present meeting on ratification of Convention

No. 131 by India. He stated that during the last meeting it was indicated that considerable success had been achieved towards ratification of the Convention. But the present Agenda shows that the issue still remains inconclusive. The decision of Inter-Ministerial Group to get impact study conducted by VVGNLI would further delay the matter. The Ministry of Labour and Employment is considering amendment of the Minimum Wages Act to cover all categories of workers. However, it may be considered that as many as 45 categories of employment at the Central level and 1628 categories of employment at the State level are already covered under the schedule of the Act. Besides there is an element of flexibility available under the Convention. In view of this, ratification of the Convention should be taken up without waiting for amendments to the Minimum Wages Act to be finalised. The representative of CITU requested the Ministry to convene a meeting of all social partners to discuss the proposed amendments and expedite the process of amending the Act.

5.6 The representative of AITUC requested the Ministry to consider fixing some time frame for finalising amendments to the Minimum Wages Act.

5.7 The representative of HMS cited the example of Kerala which was attracting a large number of migrant workers due to high minimum wages so much so that the State Government was finding it difficult to provide basic amenities to them.

5.8 The issue of providing basic minimum wages to domestic workers was highlighted by the representative of SEWA. She stated that domestic workers were an exploited lot and immediate action was required to assure minimum wages to them. The process of making necessary amendments to the Minimum Wages Act should therefore be expedited.

5.9 The representative of AICCTU expressed apprehension at the slow pace of ratification of Convention No. 131. He stated that Government should treat labour as a priority issue and give suitable attention to both fixation and implementation of minimum wages for workers. He also cited the example of violation of provisions of Minimum Wages Act in the case of Commonwealth Games workers. Government had not been able to formulate a rational criteria for fixation of minimum wages so far. The Sixth Central Pay Commission had acknowledged that a family with income below Rs. 6000 a month cannot virtually survive. Hence there was need for having a relook at the current national floor level minimum wage of Rs. 100 per day.

5.10 The representative of Labour Progressive Federation spoke about the socio-economic vulnerability of workers and requested for implementation of universal minimum wage throughout the country.

5.11 The representative of CIE stated that he agreed with the Trade Union members on the issue of having discussion on the proposed amendments to the Minimum Wages Act. Having decentralised minimum wages has its drawbacks as some State Governments find it difficult to raise minimum wages. This results in migration of workers to other States offering higher minimum wages placing industries and

employers in a disadvantaged position. He appreciated the decision to get an impact study done on the proposed amendments to the Minimum Wages Act. The representative of CIE was of the view that ratification of Convention No. 131 should be considered only after amendment of the Act with approval of Parliament. He stated that MOLE was moving in the right direction.

5.12 It was pointed out by the representative of LUB that while determining Minimum Wages, due consideration should be given to the aspect of productivity. Many units were paying minimum wages without assurance of suitable productivity which affected their viability. Minimum wages should be fixed after taking into account cost of living and should be universal.

Convention No. 162 (Asbestos)

6. The representative of INTUC stated that it was necessary to ratify Convention No. 162 concerning Asbestos at the earliest to protect workers from occupational hazards and accidents. Workers exposed to Asbestos suffered grave health risks and were victimised by employers. The representative of AITUC drew attention of the Committee to the dangers posed by Asbestos use including cancer. He emphasised that many countries had banned Asbestos and India should also consider this option seriously. The representative of CITU stated that accidents in industrial sector were not properly reported and requested for giving due importance to the health and safety of workers..The representatives of AIMO and LUB requested that ratification of the Asbestos Convention should be expedited.

MLC 2006 and Convention No.-188 (Work in Fishing Sector)

7.1 The representative of AITUC stated that workers engaged in fishing operations belonged to the unorganised sector and majority of women were employed in this sector. He requested that after the conclusion of preparatory workshop at Kochi the process for ratification of the Convention may be expedited without holding any further meetings.

7.2 It was stated by the representative of HMS that the workshop on Convention No. 188 at Kochi was an effective step towards ratification of the Convention. It provided a forum for interactions and getting the views of all stakeholders involved in the fishing sector. However, it was unfortunate that no representative from employers side was present. He indicated that traditional fishermen would be most benefited when the Convention was ratified as they were an unorganised lot unable to reach their voice to policy makers. He appreciated the action reported in respect of Maritime Labour Convention that DG (Shipping) was in the process of carrying out necessary amendment in Laws to facilitate ratification of the Convention and welcomed the measures being taken.

7.3 The representative of CITU also expressed satisfaction at the progress reported by DG (Shipping) on MLC 2006. The representative of LUB stated that due to short notice representative from the organisation could not attend the Workshop at Kochi.

Decent Work for Domestic Workers

8.1 The representative of BMS criticised Government for not ensuring the participation of Trade Union in the Task Force constituted for Domestic Workers. He stated that Government had not taken into account the views of Trade Unions on adoption of new Instrument for Domestic Workers. The decision of Government to support a Recommendation for Domestic Workers at the recently concluded ILC was not proper as a result of which India stands isolated in the International community on this important Instrument.

8.2 The representative of AITUC requested Government to adopt a legislation to protect the rights and regulate working conditions of Domestic Workers. The implementation of the Act could be done by Social Security Boards set up at Central and State level. Majority of the domestic workers were migrants and subjected to exploitation by Placement Agencies. In view of these reasons he requested Government to change its stand on the proposed ILO Instrument for Domestic Workers and support the adoption of a Convention in the next ILC.

8.3 The representative of HMS stated that during ILC majority of member states favoured the adoption of a Convention supported by Recommendation on Decent Work for Domestic Workers. He requested Government to revise its stand in favour of a Convention. This would go a long way to improve the lot of domestic workers who were an unorganised lot and did not enjoy any right through existing national laws at present. He also requested Government to reconsider its stand for ratification of ILO Instruments first followed by enactment or amendment of laws. Similar views were expressed by representative of CITU. He stated that in the last meeting of COC in February, 2010 the Trade Unions had requested Government to support a Convention. However, in ILC Government delegation spoke in favour of a Recommendation. Besides no representative of Trade Unions was associated with the Task Force set up by the Ministry for Domestic Workers.

8.4 The representative of AIUTUC requested that ILO Instrument for Domestic Workers in the form of a Convention may be supported.

8.5 It was stated by the representative of LPF that Domestic Workers did not come under the definition of workers. In India Domestic Workers were unorganised and there were no laws to regulate their wages or conditions of employment. They had no opportunities for redressal of grievances. The representative of LUB requested that Domestic Workers should be allowed to form unions and enjoy rights of collective bargaining. He requested Government to support the adoption of a Convention in next ILC.

8.6 It was indicated by DG (Shipping that action was being taken to amend the relevant Acts and Rules to enable ratification of Maritime Labour Convention by Government.

Agenda Item No. 3 Convention No. 182 (Worst Forms of Child Labour)

9.1 Secretary (L&E) stated that the Ministry was moving further towards ratification of Convention No. 182. The Ministry had prepared a proposal for amendments to the Child Labour (Prohibition and Regulation) Act, 1986 to bring the provisions of the Act in conformity with the Convention. Ministry of Law had concurred in with the proposal and now further action was being taken to move the amendments in Parliament.

9.2 The Trade Union representatives unanimously requested Government to ratify the ILO Child Labour Conventions No. 138 and 182, since they were the Core Conventions. India as a founder member of ILO had the responsibility of ratifying the Core Conventions on priority basis. In India there was exploitation of children and it was crucial to protect their interests.

9.3 The representative of BMS sought the ratification of Convention No. 87 and 98 which were Core Conventions of ILO and were important for the protection of workers rights and social dialogue. In respect of Convention 138 and 182 he stated the ILO had set a target for eliminating the Worst Form of Child Labour by 2016. Keeping this in view India should intensify its efforts to ratify Convention No. 182

9.4 The representative of AITUC also called for ratification of the Core Convention 138, 182, 87 and 98 by India at the earliest.

9.5 It was stated by representative of AIUTUC that very few countries of the world were defaulting in ratification of the Child Labour Conventions and India was one of them. He requested Government to stipulate a time frame for ratification of Convention 182 by increasing the age for employment of children in hazardous jobs upto 18 years.

9.6 The representative of LPF stressed on the need for ratification of Child Labour Conventions to improve the plight of children and provide education and healthcare facilities to them.

9.7 The representative of CITU said that Government should straightaway ratify Convention No. 182 without waiting for amendment of the Act.

9.8 It was indicated by the representative of BMS that many other Ministries like Women and Child Development were introducing legislations concerning children which should be reviewed by Ministry of Labour and Employment to ensure that a uniform policy is followed.

9.9 It was stated by Secretary (L&E) that India does not want to be a defaulter in ratification of Child Labour Conventions. However as per the existing national policy and practices of Government some procedures have to be complied with for amendment of the Act. The Parliament representing the supreme national body will examine the proposed amendment including reference to Standing Committee etc. We are unable to ratify the Convention immediately as the minimum age for entry into employment in India is 14 years as compared to 18 years stipulated in the Convention. He requested ILO to render technical assistance to help Government in ratifying the Core Convention on Child Labour. He assured the Committee members that steps would be taken to amend the Act and ratify the Convention as fast as possible.

Agenda Item No. 4 Recommendation No. 200 (HIV/AIDS and the World of Work)

10.1 Director ILO-SRO, New Delhi stated that Recommendation No 200 was the first ILO Standard on HIV/AIDS workplace initiatives. The representative of ILO made a power point presentation to explain the scope and main features of the Instrument. The Recommendation provided for inclusion of the workplace as an essential element of the national, regional and international response to HIV/AIDS.

10.2 The representative of LPF pointed out that Government should look at the possibility of subsidising the ART medicines for HIV/AIDS patients as they were quite costly and could not be afforded by low income group workers. He also requested for devoting attention to workers suffering from TB as it was a bigger problem in the Indian context.

Agenda Item No. 5 Convention No. 144 (Tripartite Consultations)

11.1 The representative of HMS requested that compliance with provisions of ratified Conventions was the responsibility of member states. He requested that copies of Reports under Article 22 should be invariably sent to all social partners for their information.

11.2 The representative of AITUC stated that implementation of tripartism in States was quite poor. The importance of frequent meetings of tripartite bodies, taking proper decisions and regular follow-up was emphasised by representative of CITU. He cited the example of Task Force for Domestic Workers which had no tripartite character.

11.3 The representative of AICCTU requested that representatives of all recognised Central Trade Unions should be included in Tripartite Committees and bodies.

11.4 The Principal Secretary Labour & Employment Government of Tamil Nadu presented details about implementation of tripartism in his State. He indicated that tripartite machinery was functioning in the areas of Social Security, industrial relations and wages. Industrial Disputes were settled through tripartite participation. A State

Advisory Labour Board and Welfare Boards for unorganised workers like those in construction sector had been established. These bodies were tripartite in nature and looked at issues relating to enforcement of laws and welfare measures for workers like education, health, social security etc.

11.5 The Principal Secretary Labour & Employment, Government of Haryana stated that a well placed system of tripartite mechanism existed in the State. There was a Labour Officer and Labour Commissioner to look after amicable solution to industrial disputes and resolve matters through out of court settlement. A number of tripartite Welfare Boards and Advisory Boards for Building and Construction Workers etc. were in place which were delivering best results.

12 In his concluding remarks, Secretary (L&E) thanked all participants for their views and suggestions on the Agenda Items. He stated that their views would be considered seriously and all necessary action will be taken to ratify the Core Conventions on Child Labour, Minimum Wages etc. Government acknowledged the recommendations of the Committee for holding two meetings of the COC in a year which would provide a useful opportunity for sharing of views and information with social partners and deciding on future course of action in the spirit of tripartism. In respect of the Minimum Wage Fixing Convention he stated that Report by VVG NLI was in final stage. He assured that the Ministry would be able to show further progress in the next meeting.

The meeting ended with a Vote of Thanks to the Chair.

List of Participants who attended the 34Th Session of Tripartite Committee in Conventions (TCOC) held on 5.10.10

Ministry of Labour and Employment

1. Shri Prabhat C. Chaturvedi, in the chair Secretary (L&E)
2. Shri Ravi Mathur, AS(L&E)
3. Shri Ashok Sahu, LEA
4. Shri Anil Swarup, DGLW
5. Shri A.C. Pandey, JS
6. Dr. Harcharan Singh, DDG
7. Shri Satish Puri, DG (Mines Safety), DGMS
8. Shri G.M.E.K.Raj, Dy DG, DGFASLI
9. Shri V. Murali, Dy CLC
10. Shri H. Vishvanathan, Director (Safety)
DGFASLI
11. Shri Vikas, Director
12. Shri H.K. Jethi, Director
13. Ms Vandana Sharma, Director
14. Shri Y.S. Kataria, Dy Director (Media & Communication)
MOLE
15. Shri Sanjibon Ray, Dy Director (Mines Safety)
16. Ms. Indrani Gupta, US (ILAS)
17. Ms Sameera Saurabh, Dy Director (ILAS)
18. Shri Sonmani Haobam AD (ILAS)

Ministry of shipping

Shri Satish B. Agnihotri, DG (Shipping)

Workers Group

1. Shri Sajinarayanan C.K, Vice President, BMS
2. Shri R.V. Subba Rao, Vice President
3. Shri G.L Dhar, AITUC
4. Shri Thampan Thomas, HMS
5. Shri Swadesh Dev Roye, Secretary, CITU
6. Shri R.K. Sharma, Secretary, AIUTUC
7. Shri P.N. Dwivedi, TUCC
8. Ms Shalini Trivedi, SEWA
9. Shri Rajiv Dimal, AICCTU
10. Shri Ashok Ghosh, Secretary, UTUC
11. Shri Ramesh Vats, INTUC

Employers Group

1. Shri B.S. Hegde, Adviser, EFI
2. Shri Amit Kumar Sen, President, AIMO
3. Shri Vineet Bhardwaj, Dy Director CII
4. Shri R.K. Bharadwaj, LUB
5. Shri Shitangshu Tege, Research Associate FICCI

State Governments

1. Shri Sarban Singh, Principal Secretary (Labour & Employment) Haryana
2. Dr. T. Prabhakara Rao, Principal Secretary (Labour & Employment) Tamil Nadu
3. Shri Jinkappa J T, Joint Labour Commissioner. Karnataka
4. Shri S. S. Randhawa, Assistant Labour Commissioner. Punjab

ILO Sub Regional Office

1. Ms Tine Staermose, Director
2. Ms Sherin Khan, Senior Specialist (Child Labour)
3. Ms Neetu Lamba, National Professional office
4. Ms Divya Verma, Sr. Program Officer (HIV/AIDS)
5. Ms Amjana Challani, Program Officer
6. Mr. Anandan Menon, Program Officer

C138 Minimum Age Convention, 1973

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, 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 seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph 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--

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

Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article--

- (a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
- (b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

Article 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of--

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.
- (d)

Article 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is--

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.
2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this

Convention or by a declaration communicated to the Director-General of the International Labour Office.

4. When the obligations of this Convention are accepted--

- (a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
- (b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,
- (c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
- (d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,
- (e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,
- (f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention--

- (a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,
- (b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

- (c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof,

if and when this Convention shall have come into force.

Article 11

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

Article 12

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

Article 13

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 14

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 15

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 16

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 17

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 13 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.

C182 Worst Forms of Child Labour Convention, 1999

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 87th Session on 1 June 1999, and
Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and
Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and
Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and
Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and
Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and
Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and
Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and
Having decided upon the adoption of certain proposals with regard to child labour, 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 seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term **child** shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term **the worst forms of child labour** comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
 - (a) prevent the engagement of children in the worst forms of child labour;
 - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - (d) identify and reach out to children at special risk; and
 - (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

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 Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 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 Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

Article 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 the Director-General 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.

Convention No. 155 Occupational Safety & Health.

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 an international Convention,
adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Occupational Safety and Health Convention, 1981:

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all branches of economic activity.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.
3. 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 branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.

3. 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 limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

Article 3

For the purpose of this Convention—

- 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.

PART II. PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Article 5

The policy referred to in Article 4 of this Convention shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:

- (c) design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);
- (d) relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers;
- (e) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;
- (f) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level;
- (g) the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of this Convention.

Article 6

The formulation of the policy referred to in Article 4 of this Convention shall indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice.

Article 7

The situation regarding occupational safety and health and the working environment shall be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

PART III. ACTION AT THE NATIONAL LEVEL

Article 8

Each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organisations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4 of this Convention.

Article 9

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.
2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.

Article 10

Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.

Article 11

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

- (c) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;
- (d) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- (e) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- (f) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
- (g) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;
- (h) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

Article 12

Measures shall be taken, in accordance with national law and practice, with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use—

- (a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
- (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided;
- (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

Article 13

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

Article 14

Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

Article 15

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.
2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

PART IV. ACTION AT THE LEVEL OF THE UNDERTAKING

Article 16

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.

Article 17

Whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention.

Article 18

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements.

Article 19

There shall be arrangements at the level of the undertaking under which—

- (e) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;
- (f) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;
- (g) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;
- (h) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;
- (i) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health

- associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;
- (j) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Article 20

Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

Article 21

Occupational safety and health measures shall not involve any expenditure for the workers.

PART V. FINAL PROVISIONS

Article 22

This Convention does not revise any international labour Conventions or Recommendations.

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 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 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.

C-87 Freedom of Association and Protection of the Right to Organise Convention, 1948

The General Conference of the International Labour Organisation,
Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;
Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;
Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;
Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress";
Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;
Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;
adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I - FREEDOM OF ASSOCIATION

Article 1

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

Article 2

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

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

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

PART II - PROTECTION OF THE RIGHT TO ORGANISE

Article 11

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

PART III - MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating:

- a. the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
 - b. the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c. the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d. the territories in respect of which it reserves its decision.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13

1. Where the subject-matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or

b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

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

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV - FINAL PROVISIONS

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 ratifications 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, declarations and denunciations communicated to him by the Members of the Organisation.

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

Article 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, declarations 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.

C98 Right to Organise and Collective Bargaining Convention, 1949

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and
Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and
Having determined that these proposals shall take the form of an international Convention, adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to—
 - a. make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - b. cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

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

Article 4

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

Article 5

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

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

Article 7

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

Article 8

1. This Convention shall be binding only upon those Members of the International Labour 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. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate --

- a. the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - b. the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c. the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d. the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 10

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

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, declarations and denunciations communicated to him by the Members of the Organisation.

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

Article 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, declarations 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.

C181 Private Employment Agencies Convention, 1997

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 Eighty-fifth Session on 3 June 1997, and
Noting the provisions of the Fee-Charging Employment Agencies Convention (Revised), 1949, and

Being aware of the importance of flexibility in the functioning of labour markets, and
Recalling that the International Labour Conference at its 81st Session, 1994, held the view that the ILO should proceed to revise the Fee-Charging Employment Agencies Convention (Revised), 1949, and

Considering the very different environment in which private employment agencies operate, when compared to the conditions prevailing when the above-mentioned Convention was adopted, and

Recognizing the role which private employment agencies may play in a well-functioning labour market, and

Recalling the need to protect workers against abuses, and

Recognizing the need to guarantee the right to freedom of association and to promote collective bargaining and social dialogue as necessary components of a well-functioning industrial relations system, and

Noting the provisions of the Employment Service Convention, 1948, and

Recalling the provisions of the Forced Labour Convention, 1930, the Freedom of Association and the Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Discrimination (Employment and Occupation) Convention, 1958, the Employment Policy Convention, 1964, the Minimum Age Convention, 1973, the Employment Promotion and Protection against Unemployment Convention, 1988, and the provisions relating to recruitment and placement in the Migration for Employment Convention (Revised), 1949, and the Migrant Workers (Supplementary Provisions) Convention, 1975, and

Having decided upon the adoption of certain proposals with regard to the revision of the Fee-Charging Employment Agencies Convention (Revised), 1949, 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 ninety-seven, the following Convention, which may be cited as the Private Employment Agencies Convention, 1997:

Article 1

1. For the purpose of this Convention the term ***private employment agency*** means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;
- (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

2. For the purpose of this Convention, the term **workers** includes jobseekers.

3. For the purpose of this Convention, the term **processing of personal data of workers** means the collection, storage, combination, communication or any other use of information related to an identified or identifiable worker.

Article 2

1. This Convention applies to all private employment agencies.

2. This Convention applies to all categories of workers and all branches of economic activity. It does not apply to the recruitment and placement of seafarers.

3. One purpose of this Convention is to allow the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions.

4. After consulting the most representative organizations of employers and workers concerned, a Member may:

- (a) prohibit, under specific circumstances, private employment agencies from operating in respect of certain categories of workers or branches of economic activity in the provision of one or more of the services referred to in Article 1, paragraph 1;
- (b) exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned.

5. A Member which ratifies this Convention shall specify, in its reports under article 22 of the Constitution of the International Labour Organization, any prohibition or exclusion of which it avails itself under paragraph 4 above, and give the reasons therefore.

Article 3

1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.

2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice.

Article 4

Measures shall be taken to ensure that the workers recruited by private employment agencies providing the services referred to in Article 1 are not denied the right to freedom of association and the right to bargain collectively.

Article 5

1. In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability.

2. Paragraph 1 of this Article shall not be implemented in such a way as to prevent private employment agencies from providing special services or targeted programmes designed to assist the most disadvantaged workers in their jobseeking activities.

Article 6

The processing of personal data of workers by private employment agencies shall be:

(a) done in a manner that protects this data and ensures respect for workers privacy in accordance with national law and practice;

(b) limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.

Article 7

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.

2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain

categories of workers, as well as specified types of services provided by private employment agencies.

3. A Member which has authorized exceptions under paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.

Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Article 10

The competent authority shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.

Article 11

A Member shall, in accordance with national law and practice, take the necessary measures to ensure adequate protection for the workers employed by private employment agencies as described in Article 1, paragraph 1(b) above, in relation to:

- (a) freedom of association;
- (b) collective bargaining;
- (c) minimum wages;
- (d) working time and other working conditions;
- (e) statutory social security benefits;
- (f) access to training;

- (g) occupational safety and health;
- (h) compensation in case of occupational accidents or diseases;
- (i) compensation in case of insolvency and protection of workers claims;
- (j) maternity protection and benefits, and parental protection and benefits.

Article 12

A Member shall determine and allocate, in accordance with national law and practice, the respective responsibilities of private employment agencies providing the services referred to in paragraph 1(b) of Article 1 and of user enterprises in relation to:

- (a) collective bargaining;
- (b) minimum wages;
- (c) working time and other working conditions;
- (d) statutory social security benefits;
- (e) access to training;
- (f) protection in the field of occupational safety and health;
- (g) compensation in case of occupational accidents or diseases;
- (h) compensation in case of insolvency and protection of workers claims;
- (i) maternity protection and benefits, and parental protection and benefits.

Article 13

1. A Member shall, in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.

2. The conditions referred to in paragraph 1 above shall be based on the principle that the public authorities retain final authority for:

- (a) formulating labour market policy;
- (b) utilizing or controlling the use of public funds earmarked for the implementation of that policy.

3. Private employment agencies shall, at intervals to be determined by the competent authority, provide to that authority the information required by it, with due regard to the confidential nature of such information:

- (a) to allow the competent authority to be aware of the structure and activities of private employment agencies in accordance with national conditions and practices;
- (b) for statistical purposes.

4. The competent authority shall compile and, at regular intervals, make this information publicly available.

Article 14

1. The provisions of this Convention shall be applied by means of laws or regulations or by any other means consistent with national practice, such as court decisions, arbitration awards or collective agreements.

2. Supervision of the implementation of provisions to give effect to this Convention shall be ensured by the labour inspection service or other competent public authorities.

3. Adequate remedies, including penalties where appropriate, shall be provided for and effectively applied in case of violations of this Convention.

Article 15

This Convention does not affect more favourable provisions applicable under other international labour Conventions to workers recruited, placed or employed by private employment agencies.

Article 16

This Convention revises the Fee-Charging Employment Agencies Convention (Revised), 1949, and the Fee-Charging Employment Agencies Convention, 1933.

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 Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 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 Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

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

Article 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 the Director-General 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

Guidelines on Operation of Private Placement Agencies

- 1) The Private Placement Agencies are defined as those agencies, which cater to the specific placement requirement of the labour market within the country. It should not include such agencies, which are covered under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979.
- 2) The Private Placement Agencies should be registered with the designated authority of State/UT. For registration of such agencies security deposit if considered necessary by the State/UT would be necessary to safeguard the interest of the job-seekers.
- 3) Such agencies should provide more or less regular jobs.
- 4) Private Placement Agencies will take adequate care to see that placement is not made for illegal activities.
- 5) The private Placement Agencies for placement are required to provide that placement services through matching of employers' requirement with the profile of job seekers registered with them. In such cases the Private Placement Agencies may, therefore, have to be allowed to take reasonable service charges from the job seekers, which should not exceed first monthly wage of the job seeker. However, the Private Placement Agencies may not be allowed to charge more than Rs. 100/- as registration charges from job seekers to meet the initial service charges.
- 6) The service charges to be paid by the employer to the Private Placement Agencies may be left open because it is a mutual agreement between the employer and the Private Placement Agencies. It should, however, be ensured that any amount of charges to be paid by the employer to the Private Placement Agencies for making placement services should not affect the rate of monthly wage of the job seeker.
- 7) Private Placement Agencies shall maintain a job seekers database which should be made available to State/UT controlled Employment Exchanges and vice versa on mutually agreed term.
- 8) The Employment Department of the State/UT Government may be authorized to ensure the compliance of these guidelines on the functioning of Private Placement Agencies and both the agencies should work in harmony.
- 9) While regulating the Private Placement Agencies, the respective State/UT will device their mechanism of interaction between Public and Private Placement Agencies.

10) In case of violation made by the Private Placement Agencies the State/UT Government will have the right to forfeit his security deposit, besides cancellation of registration.

11) It should be obligatory on the part of the Private Placement Agencies to share the statistical information connected with the registrations and placement of job seekers as prescribed by the State/UT Govt. Authorized persons of the State/UT will have right to ascertain, the names of the employers to whom the services are provided by the Private Placement Agency.

12) Redressal of grievances or disputes may be settled by some designated authority as declared by the State/UT Government.

13) Agreement between the designated authority by the State/UT Government and concerned placement agencies should be signed.

14) The Private Placement Agencies registered with the designated authority of Government shall display their registration number and other details as may be required in conspicuous manner.

15) If registered Private Placement Agencies have branches in other States, it will be required to enter into separate agreement(s) with the designated authority of the concerned State(s)/UT(s).
