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**Report IV(2A)**

# **Promotional framework for occupational safety and health**

**Fourth item on the agenda**

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## LIST OF RECURRING ABBREVIATIONS

### Employers' and workers' organizations

Argentina	CGT RA	General Confederation of Labour of the Republic of Argentina
Australia	ACTU	Australian Council of Trade Unions
Austria	IV	Federation of Austrian Industry
	WKÖ	Chamber of Commerce of Austria
	ÖGB	Austrian Confederation of Trade Unions
Barbados	BWU	Barbados Workers' Union
Belarus	FPB	Federation of Trade Unions of Belarus
Belgium	CNT	National Labour Council
	FGTB	General Federation of Labour of Belgium
Brazil	CNC	National Confederation of Commerce
	CNI	National Confederation of Industry
	CGTB	General Confederation of Workers of Brazil
Canada	CEC	Canadian Employers' Council
	CLC	Canadian Labour Congress
China	CEC	China Enterprise Confederation
	ACFTU	All-China Federation of Trade Unions
Costa Rica	CCTD-RN	Costa Rica Confederation of Democratic Rerum Novarum Workers
Cyprus	CEIF	Cyprus Employers' and Industrialists' Federation
Czech Republic	ČMKOS	Czech-Moravian Confederation of Trade Unions
Denmark	DA	Danish Employers' Confederation
	FTF	Salaried Employees' and Civil Servants' Confederation
	LO	Danish Confederation of Trade Unions
Egypt	ETUF	Egyptian Trade Union Federation
Finland	EK	Confederation of Finnish Industries

	SY	Federation of Finnish Enterprises (Suomen Yrittäjät)
	VTML	State Employer's Office
	SAK	Central Organization of Finnish Trade Unions
	STTK	Finnish Confederation of Salaried Employees
	AKAVA	Confederation of Unions for Academic Professionals
France	MEDEF	Movement of French Enterprises
	CGT-FO	General Confederation of Labour – Force Ouvrière
Germany	BDA	Confederation of German Employers' Associations
Greece	SEV	Federation of Greek Industries
	ESEE	National Confederation of Greek Trade
Iceland	ASI	Icelandic Federation of Labour
Italy	Confindustria	General Confederation of Italian Industry
	CGIL	Italian General Confederation of Labour
	CISL	Italian Confederation of Workers' Unions
	Confartigianato	General Confederation of the Craft Sector
	UIL	Italian Labour Union
Japan	JBF	Japan Business Federation (Nippon Keidanren)
	JTUC-RENGO	Japanese Trade Union Confederation
Lebanon	ALI	Association of Lebanese Industrialists
Malaysia	MEF	Malaysian Employers' Federation
Mexico	CONCAMIN	Mexican Confederation of Chambers of Industry
Mongolia	MONEF	Mongolian Employers' Federation
Netherlands	VNO-NCW	Confederation of Netherlands Industry and Employers
	FNV	Netherlands Confederation of Trade Unions
	CNV	National Federation of Christian Trade Unions
	MHP	Central Union for Intermediate and High Level Employees
New Zealand	BNZ	Business New Zealand
	NZCTU	New Zealand Council of Trade Unions
Norway	NHO	Confederation of Norwegian Business and Industry
	LO	Confederation of Trade Unions in Norway

Poland	Solidarność	Independent and Self-Governing Trade Union
Portugal	CCP	Confederation of Trade and Services of Portugal
	CIP	Confederation of Portuguese Industry
	CGTP	General Confederation of Portuguese Workers
Senegal	CNTS	National Confederation of Workers of Senegal
South Africa	BUSA	Business Unity South Africa
Spain	CC.OO.	Trade Union Confederation of Workers' Committees
Sweden	LO	Swedish Trade Union Confederation
Switzerland	UPS	Confederation of Swiss Employers
Turkey	TISK	Turkish Confederation of Employers' Associations
United Kingdom	CBI	Confederation of British Industry
	TUC	Trades Union Congress
United States	AFL-CIO	American Federation of Labor and Congress of Industrial Organizations

#### **Other abbreviations used in the report**

ILO	International Labour Organization
EU	European Union
OSH	Occupational Safety and Health
SMEs	Small and medium-sized enterprises
WHO	World Health Organization

## INTRODUCTION

The first discussion on the question of occupational safety and health with a view to developing a new instrument which would establish a promotional framework for occupational safety and health took place at the 93rd Session (2005) of the International Labour Conference. Following that discussion, and in accordance with article 39 of the Standing Orders of the Conference, the International Labour Office prepared and communicated a report<sup>1</sup> containing a proposed Convention and a proposed Recommendation based on the Conclusions adopted by the Conference at its 93rd Session.

Governments were invited to send their comments on three specific questions and any amendments or comments they might wish to make so as to reach the Office by 15 November 2005 at the latest, or to inform it, by the same date, whether they considered that the proposed texts constituted a satisfactory basis for discussion by the Conference at its 95th Session (2006).

At the time the present report was prepared, the Office had received replies from the governments of the following 63 member States: Argentina, Armenia, Australia, Austria, Barbados, Belarus, Belgium, Brazil, Canada, China, Costa Rica, Cyprus, Czech Republic, Denmark, Egypt, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, India, Italy, Japan, Jordan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Luxembourg, Malawi, Malaysia, Mauritius, Mexico, Republic of Moldova, Mongolia, Morocco, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Slovakia, South Africa, Spain, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Uruguay.

In accordance with article 39, paragraph 6, of the Standing Orders of the Conference, as amended at its 73rd Session (1987), governments were requested to consult the most representative organizations of employers and workers before finalizing their replies and to indicate which organizations they had consulted.

The governments of 34 member States (Australia, Austria, Barbados, Belarus, Belgium, China, Costa Rica, Cyprus, Denmark, Egypt, El Salvador, Estonia, Finland, France, Guatemala, Iceland, Italy, Jordan, Malawi, Mauritius, Republic of Moldova, New Zealand, Norway, Poland, Portugal, Slovakia, South Africa, Spain, Suriname, Sweden, Switzerland, Syrian Arab Republic, Turkey, Uruguay) indicated that their replies had been drawn up after consultation with organizations of employers and workers. Some of the governments incorporated in their replies the opinions expressed by these organizations on certain points, while others transmitted the observations of

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<sup>1</sup> ILO: Promotional framework for occupational safety and health, Report IV(1), International Labour Conference, 95th Session, Geneva, 2006.

employers' and workers' organizations separately. In some cases, replies were received directly from employers' and workers' organizations.

To ensure that the English and French texts of the proposed Convention and proposed Recommendation on the promotional framework for occupational safety and health are in the hands of the governments within the time limit laid down in article 39, paragraph 7, of the Standing Orders of the Conference, these texts have been published in a separate volume, Report IV(2B), that has been sent to them. The present volume, Report IV(2A), which has been drawn up on the basis of the replies from governments and from employers' and workers' organizations, contains the essential points of their observations. This report is divided into four sections: the first comprises their general observations on the proposed texts, the second summarizes their replies to the three specific questions asked in Report IV(1), while the third and fourth sections contain their observations on the proposed Convention and the proposed Recommendation respectively. Office commentaries on the observations and replies are provided under each section.

## **REPLIES RECEIVED AND COMMENTARIES**

In their replies, most governments and employers' and workers' organizations commented in some detail on the proposed Convention and Recommendation and answered the questions raised in Report IV(1). This report contains the substance of those replies with Office commentaries where appropriate. However, the governments of the following 12 member States said that they had no observations to make and that they considered the proposed texts a satisfactory basis for discussion at the International Labour Conference in June 2006. These were Armenia, Belarus, Czech Republic, Egypt, Estonia, Jordan, Kuwait, Republic of Moldova, Morocco, Poland, Suriname and United Arab Emirates.

### **1. General observations**

This first section includes general observations that relate to the proposed instruments as a whole, that do not relate specifically to any particular provision, and that refer to general provisions.

#### ARGENTINA

The only practical way to promote occupational safety and health (OSH) and to ensure that the international and national bodies concerned have the necessary human and financial resources is to incorporate the rights to OSH – which are rights to life – into the fundamental Conventions and rights of the ILO.

CGT RA: The subject matter of OSH is very important and must involve all players, especially the State. The responsibility of the State should be extended to ensure that there is effective monitoring of compliance and imposing of sanctions in cases of non-compliance. Sufficient human, financial and technical resources for monitoring and enforcement must be assured. While the texts of the proposed instruments are adequate, it will be necessary to include more detailed reference to the responsibilities of the State and employers and to the rights of workers.

#### AUSTRALIA

The draft instruments are broadly consistent with the need for labour standards that are principles-based, flexible and non-prescriptive. The final instruments should make an important contribution to securing better OSH outcomes throughout the world.

ACTU: The proposals reflect Australia's own national OSH policy, system and programme, and its National Occupational Health and Safety Strategy 2002-12 provides a good example of a national policy and programme. With regard to the proposed texts, the Convention should promote the elimination of hazards in the workplace rather than minimizing hazards and risks, and the Recommendation should spell out the hierarchy of

controls (elimination, substitution, engineering controls, administration and personal protective equipment).

#### AUSTRIA

Austria welcomes the proposal to have a Convention supplemented by a Recommendation. Since the Convention is supposed to lay down the fundamental principles, which should be specified in further detail by the Recommendation, it is important to draft the Convention as concisely as possible and incorporate detailed provisions in the Recommendation. In particular, Austria favours deleting any reference to the national OSH programme from the proposed Convention and including it only in the Recommendation, where it would be more detailed. This should ensure wider ratification of the Convention.

IV: Given the very high level of OSH protection already in Austria, a new international instrument would not contribute to further improvements at the national level. At the international level, it is feared that a Convention would be too inflexible and that only a few member States would ratify it, so a Recommendation is preferred.

WKÖ: Agrees with the above views of the IV. European Union legislation contains obligations for employees to make appropriate use of equipment and protective systems and to carry out checks for defects, etc., and the proposed ILO instruments should also include a general statement to this effect.

ÖGB: Supports all the contents of the instruments and welcomes the fact that they are in the form of a Convention supplemented by a Recommendation. However, more attention needs to be paid to implementation strategies and the integration of existing OSH instruments. The ÖGB is also in favour of launching a ratification campaign on existing OSH Conventions and the ILO should offer technical assistance to member States concerning such Conventions.

#### BARBADOS

The BWU welcomes the instruments, noting the need for high-level political commitment to OSH and national recognition of its importance. Effective implementation of existing ILO instruments is also needed, as is greater emphasis on reporting achievements and progress. There must be a targeted approach to OSH, setting priorities and dealing with high-risk sectors including SMEs, and for this the inspectorates must be strengthened. A national high-level tripartite body should be responsible for the national programme, the continuous improvement in OSH promotion, advocacy, legislation, knowledge and support services.

#### BELGIUM

CNT: The objective of a national policy and a national system for OSH must be to promote and implement several principles, including access of workers and their representatives to information on risks and preventive measures, risk analysis, training in prevention, an independent preventive service and the implementation of measures to reduce risks to the greatest extent possible. The European Union Framework Directive on Occupational Safety and Health (Directive 89/391/EEC of 12 June 1989) sets out such principles and is the basis for Belgian law on OSH. The ILO promotional framework should, however, contain a wider variety of instruments than just a Convention and a Recommendation.

FGTB: It is hoped that the national system for OSH will serve to ensure that enough resources are available for inspection services, in order to help implement Convention No. 81.

#### BRAZIL

Several issues need to be further examined, namely the possibility for OSH to be considered a fundamental right, the implementation of national policy and its contents (finance, management, monitoring and control mechanisms), the need for inter-sectoral and cross-cutting approaches in implementing national policy, and for national programmes to be put into practice using multi-professional, interdisciplinary and inter-sectoral approaches.

CNC: A declaration would be the most appropriate form of instrument to make a real contribution to OSH, ensuring it a high political priority and promoting national OSH strategies based on a culture of prevention and the greater implementation of standards.

#### CANADA

The objective of the Convention and Recommendation should be to raise global awareness, to foster high-level political commitment and to promote the right of workers to a safe and healthy working environment. These instruments should be strictly promotional in nature and not include overly prescriptive language that would create barriers to widespread ratification and implementation. Overall, the draft texts meet these objectives.

CLC: The most important omission of the texts is that they fail to clearly promote the ratification and implementation of some key OSH Conventions, notably Convention No. 155, and the Convention should call for ratification of Convention No. 155 on a priority basis. The tripartite development of national policy should be extended to tripartism in framing all national OSH laws and institutions.

#### CHINA

ACFTU: A framework Convention on OSH will help to raise levels of OSH in every country and play a positive role in controlling and minimizing work-related injuries. The Convention and Recommendation should be promotional and not regulatory, as this will be conducive to better ratification and adoption by member States, thus placing OSH high on the national agenda. As the proposed texts emphasize, governments must consult with representative organizations of workers and employers on OSH as well as gaining the active participation of enterprises and workers. This is important in settling OSH matters effectively and providing better protection of workers' legal rights to safety and health at work.

#### COSTA RICA

The proposed texts should include a reference to the Members recognizing occupational diseases on the basis of ILO Recommendations or similar international standards.

#### CYPRUS

CEIF: No additional principles or specific issues should be incorporated into the instruments, since the key point about a promotional framework is that it should enable

each country to determine the appropriate level of specificity in its own national policy, system or programme.

#### CZECH REPUBLIC

The ČMKOS fully supports the adoption of an ILO Convention and a Recommendation on a promotional framework for OSH. However, the purpose of the new Convention should not only be prevention of work-related injuries and occupational diseases but also maximum preservation of workers' physical, mental and social capacities. As a very important topic, OSH deserves special attention, but people need to be reminded of this and public awareness must be improved. While much progress has been made in the Czech Republic recently through the ratification of ILO Conventions on OSH, more needs to be done.

#### DENMARK

The new instruments are welcomed. They should not contain specific rules on OSH such as are found in other ILO Conventions, but establish a promotional framework on OSH in order to help the largest number of member States to ratify the Convention.

DA: A declaration would be the most suitable instrument to promote the launch of a national plan quickly in many countries, although it is accepted that the majority favour a Convention. As was made clear at the International Labour Conference in 2005, the content of the Convention should be broad and without too many specific obligations, so that it can be widely ratified by many countries.

LO and FTF hope that the new instruments will emphasize the necessary interaction between workplaces and companies more than the present texts do, and that they will define workers' rights and duties and employers' and governments' responsibilities to a greater extent. The present drafts do not sufficiently emphasize the need for governments to ratify and implement the ILO's "core" Conventions on OSH.

#### EGYPT

ETUF: The Convention is a very important one and member States should be urged to ratify it, as well as make efforts to establish cooperation at local, national and international levels. It should not be prescriptive, but rather raise awareness of prevention through education, training and promotional activities. Political commitment to the implementation of a national OSH policy and national programmes should come from the highest level of leadership, to give effect to international Conventions and reduce occupational risks. The implementation of programmes and compliance with OSH legislation should be encouraged through good quality systems including tripartite consultation, using incentives such as exoneration of taxes and through coordination with insurance schemes. The instruments should also address the need for national monitoring of latent chronic diseases and a culture of prevention should be promoted. Lastly, they should encourage and provide incentives for the exchange of information and data on OSH.

#### EL SALVADOR

The proposed instruments constitute a satisfactory basis for further discussion. They encourage vitally important matters that are already being promoted in El Salvador through its national OSH policy, its Strategic Plan and new OSH legislation. However, it is important to integrate the gender perspective into the instruments, to ensure that men and women are treated equally as regards the protection of their health at work.

## ESTONIA

The proposed texts for a Convention and a Recommendation are fully supported. The flexibility and articulation of the proposed instruments will certainly increase the possibility of implementing the relevant basic principles of OSH.

## FINLAND

The proposed policies are appropriate as such. However, a more precise definition of the aims of the instruments would be helpful at the outset, for example stating the right of every employee to work in conditions that are as safe and healthy as possible.

VTML: The proposed instruments are ideal to fill the gap between relevant existing instruments, as they discuss the development of OSH as a whole and emphasize the significance of national policies in the systematic promotion of OSH in a wider context.

EK: The document should be a communication rather than a Convention.

SY: The proposals should be formulated as a proclamation.

SAK, STTK, AKAVA: The instruments have great significance for the promotion of OSH. They should specify the basic principles of national OSH practices so as to ensure adequate OSH measures, including those for mental occupational health, the significance of which should be highlighted in the instruments. The instruments should also state various rights and duties so that they can be properly enforced. These include employee participation in decision-making, rights to adequate OSH training and information, and access to occupational health services. They also include employers' overall responsibilities for OSH, assessment of hazards and risks, including those for mental occupational health, and providing training and information. Government obligations to develop legislation in order to improve levels of OSH should also be included.

## FRANCE

MEDEF: It is important for the instruments to fit into the "integrated approach" framework and to bring about political commitment by member States to establish national action to prevent occupational hazards. The new instruments should not be prescriptive and should not repeat the detail of existing OSH instruments, nor be substitutes for them. It is therefore not necessary to repeat all or parts of Convention No. 155. The instruments should set objectives and determine the general principles for setting national policies but be flexible enough to allow member States to adapt to their own national situations.

CGT-FO: It is necessary to strengthen OSH standards generally, given the growing economic pressures on labour costs in the context of globalization and trade liberalization. Discussions on the proposed instruments must therefore lead to an effective normative Convention based on existing instruments, so as to affirm their relevance, promote their effective implementation and ensure their full respect.

## GERMANY

The proposed texts are to be welcomed as they set out sensible structural and policy foundations for a national OSH system and link together existing OSH instruments. By providing the possibility of regular review of national structures and measures, the proposed instruments should also be able to keep pace with future developments in the world of work. However, the German translation of the term

“working environment”, as it appears in several parts of the proposed instruments, should be reconsidered.

#### GREECE

The proposed instruments cover the specific issues sufficiently and the texts form an adequate basis for constructive discussion. However, it would be useful for the Convention to include an article on its scope of application.

#### GUATEMALA

The proposed instruments are comprehensive in forming a thorough basis for occupational risk management. They will be of considerable legislative importance in Guatemala, therefore, and will be used as a basis for developing a national OSH policy and system, and a national programme for the promotion of a national preventative OSH culture.

#### HUNGARY

The proposed instrument(s) should be as focused as possible. The main goal is to seek political commitment and to help place the issue of worker protection high on the political agenda in Member countries.

The employer side of the National Reconciliation Council states that the content of both the proposed Convention and Recommendation is acceptable.

The employee side of the National Reconciliation Council considers that the new instruments do not meet expectations regarding the mechanism for supporting OSH objectives. The links between these and existing OSH instruments should also be less ambiguous.

#### ITALY

Confindustria: Both texts substantially reflect the provisions and levels of protection already implemented through European Union legislation – on the general principles of occupational risk prevention, consultation and participation, and training for workers and their representatives.

Confartigianato also welcomes and generally approves the documents.

#### JAPAN

JBF: The draft instruments are considered to be appropriate and it is believed that most member States will be able to ratify the Convention without too much difficulty. It is hoped that the proposed Convention and Recommendation will be adopted without substantial amendment or addition.

#### REPUBLIC OF KOREA

Given the differences between country environments, recognition of these instruments would be better promoted if they took the form of a declaration rather than a Convention and a Recommendation. Convention No. 155 has been ratified by only a small number of countries, and adopting a similar Convention will be unproductive.

LITHUANIA

Lithuania considers the proposed texts to be a satisfactory basis for further discussion.

LUXEMBOURG

Luxembourg is content with the present draft, but in the forthcoming discussions will put effort into increasing the substance of the Convention by transferring elements originating from the Recommendation.

MALAWI

The proposed texts are a satisfactory basis for further discussion.

MEXICO

CONCAMIN: The promotional aspect of the instrument must be at its heart, and duplication of existing instruments on this issue should be avoided. The instruments should therefore take the form of a declaration rather than a Convention, which would involve additional regulations, reducing flexibility and preventing ratification. A promotional declaration, supported by technical assistance, could result in effective measures to improve OSH.

NETHERLANDS

There is a need for a promotional framework for OSH, but it should give maximum flexibility to member States and not take the form of a Convention. The Netherlands therefore reserves its position with regard to the proposed Convention.

VNO-NCW supports the above view.

NEW ZEALAND

The development of the proposed framework is supported. As a complement to existing OSH instruments, the proposed framework should help developing countries in particular to promote OSH, should encourage member States to adopt policies, systems and infrastructural changes, and should raise awareness and the national profile of OSH. The promotional framework should be comprehensive and outcome-focused, embodying a participative approach, and should help identify priorities without prescribing the balance of interventions to be taken. It may be appropriate for key principles to be specifically reflected in the Convention with further guidance in the Recommendation.

BNZ shares the above view and accepts that the proposed texts are an appropriate basis for discussion.

NORWAY

The Norwegian Working Life Authorities find the present proposed texts an excellent and relevant basis for further discussion. This view is shared by the NHO, and to some extent by the LO, which has some specific suggestions for consideration.

PANAMA

The Government considers that the proposed documents cover key issues well and that they provide a good basis for further discussion. The texts constitute a series of active steps towards progressively achieving a safer and healthier working environment,

and also contain positive commitments in that they oblige the State to establish policies, national OSH systems and programmes based on the principles of relevant ILO instruments. However, a key concern is the capacity of member States to implement the national programmes effectively or to administer national OSH systems that fulfil all the requirements of the Convention – for example, providing adequate mechanisms for data collection and analysis.

#### PAPUA NEW GUINEA

The Government pledges its full support to the proposed texts, as they complement its own cause of modernizing labour legislation and promoting greater awareness of OSH among workers and the general population. At present, the Government does not have any recognized national policy, structured system or national programmes for OSH, but the proposed instruments will be welcomed by all social partners as consistent with calls by everyone for relevant national OSH legislation.

#### PERU

The Government is generally in agreement with the content of the proposed texts. However, a change to the Spanish version of the proposed Preamble to the Convention is needed, which is noted later.

#### PHILIPPINES

The Government is pleased to note that the proposed instruments will be discussed at the International Labour Conference in 2006, and believes that, if adopted, they will go a long way to reducing the incidence of work-related sickness, injuries and deaths.

#### PORTUGAL

The Office texts constitute a good basis for discussion.

The CIP agrees with this view, but considers that it should be for member States to choose the most effective means of achieving the goals of the instruments.

The CCP believes that OSH is a key concern in promoting both good working conditions and enterprise competitiveness, as the economic consequences of accidents and diseases at work are becoming increasingly marked. However, a legislative pause is called for to allow time for the correct application and evaluation of existing OSH laws, especially in the European Union context. It also highlights the importance of promoting compliance with relevant national legislation, for which sufficient human and material resources must be provided to enable the development of high-quality preventive services, especially for SMEs.

The CGTP considers that the draft texts fall short in terms of conferring responsibilities for compliance with preventive and promotional OSH policies. Two aspects that should be addressed more specifically are: the intrinsic link between the national OSH system and enterprises, with employers being given responsibility for establishing and maintaining a safe and healthy working environment, and the involvement of other bodies such as universities, technological/scientific research centres and laboratories in defining national policy, systems and programmes for OSH.

## SLOVAKIA

The social partners all agree that the proposed texts are a satisfactory basis for further discussion. The proposed instruments should express the basic principles of OSH transparently, to help to create and implement policies at national and enterprise levels.

## SOUTH AFRICA

BUSA: The proposed texts are supported and they are an appropriate basis for discussion by the Conference in 2006. The texts are deserving of support not only because of the process underlying their formulation, but also because they represent a sensible approach. The promotional framework for OSH aligns with the aspirations expressed in the Preamble of the ILO Constitution, namely “the protection of the worker against sickness, disease and injury”, and in the Declaration of Philadelphia “adequate protection for the life and health of workers in all occupations”, and its development is supported. The International Labour Conference concluded in 2003 that the purpose of a new instrument should be to ensure that priority is given to OSH in national agendas and to foster political commitment to developing national strategies for the improvement of OSH. The new instrument should have a promotional rather than prescriptive content. Consequently, BUSA believes that a declaration would be best suited to make these aspirations reality in the workplace, through strategies based on a preventative safety and health culture and the management systems approach. There is a limit as to what can be achieved through the adoption of a Convention that is in essence a legislative action, as one cannot, for example, legislate political commitment. A declaration, far from being a weak instrument, could have a strong impact on member States; it requires no ratification and member States would be bound to it by reason of their membership of the ILO.

## SWEDEN

The social partners agree that the proposed Convention and Recommendation could become important instruments in achieving a more systematic promotion of OSH in member States, and find the Office texts to be a satisfactory basis for further discussion.

## SWITZERLAND

Switzerland supports the integrated approach so far as it consolidates existing instruments and facilitates the adoption of operational measures aimed at strengthening the implementation of such standards. However, it does not believe the intention of the integrated approach was to initiate the drafting of a new Convention and Recommendation, as is being proposed, and it reaffirms its support for a declaration as this is likely to have much more symbolic weight and therefore to be followed by concrete action in the field.

The UPS supports this view, adding that a simple code of practice or promotional declaration would be the most pragmatic way of improving OSH at the international level.

## SYRIAN ARAB REPUBLIC

Syrian Arab Republic considers the texts to be a satisfactory basis for discussion.

#### TURKEY

TISK: The proposed instruments mainly address action at the national level, and in that respect Turkey will be able to meet those objectives, considering the recent tremendous progress made through various national projects. However, the instruments must take into account the fact that many national economies are made up mainly of SMEs; for example, 98 per cent of the Turkish economy comprises such enterprises.

#### UKRAINE

The Government has no fundamental objections to the content of these instruments.

#### UNITED KINGDOM

The Government is content with the texts of the proposed Convention and Recommendation as currently drafted in the report.

The CBI agrees with the above views.

#### URUGUAY

The concept of occupational diseases should be broadened to “work-related diseases” so as to give the instruments coherence by virtue of the preventive character of the concept. Strong impetus should also be given to the national authorities, to ensure that they have the necessary human and budgetary resources, which could be achieved by incorporating rights to OSH, which are rights to life, into the ILO’s fundamental principles and rights at work.

#### *Office commentary*

The general observations on the proposed texts clearly echo the consensus underlying the adoption of the Global Strategy on Occupational Safety and Health at the 91st Session (2003) of the International Labour Conference. Governments and employers’ and workers’ organizations appear to be in full agreement that OSH must be given a higher priority at international, national and enterprise levels. In this respect, the proposed Convention and Recommendation on the promotional framework for occupational safety and health underline the importance of fostering a political commitment towards achieving a safe and healthy working environment. The responses examined in the present report reflect broad support for the adoption of a Convention and a Recommendation. A few governments and employers’ organizations advocate the adoption of a declaration. With reference to the decision taken on this issue during the first discussion at the 93rd Session (2005) of the International Labour Conference, the Office has proposed no changes in this regard.

In terms of content, several governments highlight the need for flexibility. They consider that non-prescriptive provisions would better contribute to the objective of a widely ratified Convention. Most of the workers’ organizations believe that the content needs to be reinforced. They refer in particular to the importance of contributing to the promotion of the existing instruments, the principles of national policy on OSH and preventive measures at the workplace level.

In addition to inviting comments on the proposed texts, the Office also invited comments on three specific questions and, where relevant, concrete suggestions for possible modifications to the proposed texts. The Office notes that while a large number of comments were received in response to these three questions, very few responses included any specific suggestions for modifications to the proposed texts.

The Office draws attention to the importance of obtaining strong support for the instruments in order to achieve the objective of wide-scale ratification. It would therefore urge governments and employers' and workers' organizations to consider how best this can be achieved during the second discussion.

## 2. Responses to specific questions

The Office invited comments on the following questions:

1. The articulation of the link between the proposed instruments and relevant existing instruments in the area of occupational safety and health: How can this be best achieved with a view to the promotion of relevant existing instruments? Please comment.
2. Should the basic principles governing a national policy on occupational safety and health be included? If so, please specify.
3. Concerning workplace measures, should any specific issues of prevention, such as indication of rights, duties and responsibilities, information and training, and workplace safety and health committees, be included? If so, please specify.

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**Qu. 1** *The articulation of the link between the proposed instruments and relevant existing instruments in the area of occupational safety and health: How can this be best achieved with a view to the promotion of relevant existing instruments? Please comment.*

*Total number of replies from governments: 32.*

*Argentina.* All related instruments that refer to the protection of workers' health and safety should be specifically included in the proposed texts.

*Australia.* Clear cross-referencing between the proposed instruments and existing ones would be helpful. Where possible each section in the proposed Convention and Recommendation should be cross-referenced to corresponding provisions of relevant instruments.

*Austria.* Listing relevant existing instruments in the annex and including references to them in the main texts would suffice. The ILO fundamental Conventions could also be included in the annex.

*Barbados.* It would be advantageous to annex the relevant existing instruments. It would also be useful to have a manual or guidance document on how the proposed instruments can be applied in practice.

*Brazil.* The proposed promotional framework should consider the fundamental elements of existing instruments, which should be done through the Recommendation. Such topics as inspection systems and the tripartite model, referred to in Convention No. 155, should be included.

*CNI.* Existing OSH instruments should be kept up to date so as to be flexible and practical, and their ratification and implementation should be promoted.

CGTB: Such links should commit ratifying members to comply with the provisions of existing instruments, and for this the support of the WHO should also be sought.

*Canada.* The current draft instruments include sufficient linkages between the promotional framework and relevant existing OSH instruments, and further duplication of texts would not promote further ratification. An extra clause could be added to the Preamble: “Noting the importance of relevant ILO instruments in the area of occupational safety and health.”

CEC: The links that need to be made have already been included. All instruments relating to OSH share a common goal and are therefore intrinsically linked, besides which the proposed Convention and Recommendation already contain several references to existing instruments.

CLC: The proposed instruments should clearly promote the ratification of relevant existing instruments, of which Convention No. 155 is the most important. Therefore, the annex of existing instruments attached to the proposed Recommendation should also be attached to the proposed Convention.

*China.* The references to relevant ILO instruments on OSH in Articles 2 and 4(3)(e) of the proposed Convention are considered to be the best way of promoting the application of such instruments, and these texts are supported.

CEC: As far as possible, the new Convention should highlight the basic framework for OSH in order to achieve high ratification. When developing their own legislation on OSH, each country should refer to specific ILO Conventions as appropriate.

*Costa Rica.* The linkages between proposed and existing instruments, as in the present text, are sufficient.

*Cyprus.* The proposed Convention should, if adopted, become one of the ILO fundamental Conventions, and each member State should be encouraged to ratify it.

CEIF: The linkages proposed in the current drafts are satisfactory.

*Czech Republic.* ČMKOS: Conventions Nos. 155, 161, 81, 167, 170, 176 and 184 should be considered as the main instruments for OSH, and the proposed Convention should appeal for the ratification of Convention No. 155 specifically.

*Denmark.* The instruments should promote the ratification and effective implementation of relevant existing instruments, especially Conventions Nos. 155, 161, 81, 167, 170, 176 and 184. The annex attached to the proposed Recommendation should also be attached to the Convention.

The LO and FTF share the Government’s view, adding that if interaction between the new and existing instruments is not formulated directly, there is a risk of undermining existing instruments on OSH. Ratification of Convention No. 155 should be given priority, and ratification of other Conventions listed in the annex should be similarly considered.

*France.* The maximum number of member States should join in the promotional process, therefore the proposed Convention should focus on the essential elements of Convention No. 155 and Recommendation No. 164. However, sufficient flexibility is vital so as to permit national freedom in the choice of methods and articulations to achieve this objective.

CGT-FO: The main objective of the proposed Convention should be the ratification of existing relevant instruments, starting with Conventions Nos. 155, 161, 81, 167, 170, 176 and 184. Therefore, the annex to the proposed Recommendation should be attached to the proposed Convention. The main definition missing from the instrument is that of “occupational health”, which includes workers’ mental health as well as their physical health.

*Germany.* The proposed Convention should provide a framework, the provisions of which are given specific form through other OSH Conventions, so it is not necessary to create further links with them. Existing OSH instruments should be reviewed and adapted where necessary, and particular attention should be paid to Convention No. 161 and its accompanying Recommendation No. 171, where there are substantive links with the proposed instruments.

BDA: The present version of the existing text adequately articulates the link.

*Greece.* SEV, ESEE: The existing texts are sufficient to attain the objective of promoting existing relevant instruments.

*Guatemala.* Guatemala is currently reviewing and updating its own OSH legislation and Conventions Nos. 121 and 155 are both very important.

*Hungary.* Existing Conventions and Recommendations should not be promoted in themselves but as instruments to be used to achieve the goal of worker protection. In the promotional framework, the formulation of national OSH policy, reflecting high-level commitment, should come first as a basis for the ratification and implementation of specific workplace measures. The proposed instruments should refer to existing ones only where it is absolutely necessary to do so, such as the case of Convention No. 155 regarding national policy.

*Iceland.* Member States should be invited to ratify existing instruments, which could be done by a text in the proposed Recommendation. However, it is important that as many member States as possible ratify the new Convention and considerations concerning the ratification of other instruments should be avoided.

ASI: The promotional framework instruments should help promote the ratification and effective implementation of relevant existing instruments. Such an approach would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted at the International Labour Conference in 2003. The Convention should call for the ratification of Conventions Nos. 155, 161, 81, 167, 170, 176 and 184, on a priority basis, and the ratification of other Conventions listed in the annex should also be considered. To this end, the annex to the Recommendation should also appear as an annex to the Convention.

*India.* Relevant existing instruments and statutes should be taken into account when formulating national OSH policy, systems and programmes. A link between the proposed instrument and relevant existing instruments could be considered, but the ultimate act of linking should be left with the countries concerned.

*Italy.* There should be a close link between the proposed and existing instruments on OSH, as this solution would be in keeping with the promotion of the integrated approach and the conclusions of the International Labour Conference in 2003.

CGIL, CISL, UIL: The promotional framework instruments should help promote the ratification and effective implementation of relevant existing instruments. Such an approach would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted at the International Labour Conference in 2003. The Convention should

call for the ratification of Conventions Nos. 155, 161, 81, 167, 170, 176 and 184, on a priority basis, and ratification of other Conventions listed in the annex should also be considered. To this end, the annex to the Recommendation should also appear as an annex to the Convention.

*Japan.* Relevant existing instruments are appropriately referred to in the draft Convention (Article 2) and in the Recommendation (Paragraph 7).

*Kenya.* Relevant existing instruments contain standards but there has been a lack of zeal in implementing them. The promotional framework for OSH provides the impetus needed.

*Republic of Korea.* Not many countries have ratified relevant existing instruments since they specify duties that are substantially concrete and comprehensive. Moreover, given different OSH standards in different countries, linking the proposed instruments to existing ones may make it harder for countries to ratify the new Convention.

*Lithuania.* Listing relevant existing instruments, as has been done in the annex to the proposed Recommendation, is sufficient.

*Malawi.* The ratification of relevant existing instruments can only be achieved if the proposed instruments provide for financial mechanisms for their implementation. There is also a need to provide incentives to influence ratification or to prescribe periods within which member States should ratify Conventions.

*Malaysia.* The proposed Convention should be as simple as possible to ratify, so its contents should be as general and non-prescriptive as possible when referring to existing instruments. This approach would indirectly promote the use of the existing instruments by member States and over the years lead to their ratification.

*Mexico.* Links between the proposed instrument and existing ones can be achieved through national policies that are consistent with Article 4 of Convention No. 155, and that have been formulated and implemented through the participation of employers and workers. To ensure such participation, Mexico has established workplace safety and health committees that monitor the implementation of relevant legislation and promote better working conditions.

*Mongolia.* Mongolia has implemented a national programme on OSH with some success, but there is a need to further strengthen the national inspection system and to foster a preventative OSH culture. The proposed instruments will greatly help with this and are supported.

*Netherlands.* FNV, CNV, MHP: The promotional framework instruments should help promote the ratification and effective implementation of relevant existing instruments. Such an approach would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted at the International Labour Conference in 2003. The Convention should call for the ratification of Conventions Nos. 155, 161, 81, 167, 170, 176 and 184, on a priority basis, and the ratification of other Conventions listed in the annex should also be considered. To this end, the annex to the Recommendation should also appear as an annex to the Convention.

*New Zealand.* The original intention behind the integrated approach was to facilitate the rationalization and updating of existing OSH instruments. The link between the proposed instrument and relevant existing instruments is implied by the very notion of a “framework”.

*Norway.* The references to Convention No. 155 and Recommendation No. 164 in the Preamble of the proposed Convention are sufficient, but a more general reference to the ILO fundamental Conventions and to the Decent Work Agenda is recommended. The annex to the proposed Recommendation could also be an annex to the Convention and be referred to in a footnote.

The NHO and the LO support the Government's position, but the LO wishes to see a mention of Convention No. 119, although it is recognized that this Convention needs updating.

*Peru.* Articulation of the link between the proposed instruments and relevant existing instruments is necessary in order to give legal backing and effective promotion to the proposed instruments.

*Poland.* *Solidarność:* The promotional framework instruments should help promote the ratification and effective implementation of relevant existing instruments. Such an approach would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted at the International Labour Conference in 2003. The Convention should call for the ratification of Conventions Nos. 155, 161, 81, 167, 170, 176 and 184, on a priority basis, and the ratification of other Conventions listed in the annex should also be considered. To this end, the annex to the Recommendation should also appear as an annex to the Convention.

*Portugal.* CIP: The links between the proposed texts and existing instruments are satisfactorily articulated.

CGTP: Such links should be made very clear and to this end it should be stated that the application of existing instruments will not be adversely affected by the approval of the new, more generic and more broadly applicable instruments. The articulation of the link between instruments should be set out in the Preamble.

*Senegal.* CNTS: Ratification of the proposed Convention should automatically entail that of other relevant ILO instruments dealing with OSH. New wording is proposed for Article 2.

*South Africa.* The proposed instruments need to promote core OSH instruments, such as Convention No. 155 and fundamental principles such as those for workers' rights. The promotional framework should also promote awareness-raising and OSH training, and seek to promote improved relations between workers and employers.

BUSA: The proposed text is sufficient for its purpose.

*Spain.* Linking relevant existing instruments to ratification of the proposed Convention could seriously complicate the ratification process in countries that have so far ratified few of the existing instruments. Consideration should be given to moving the link to the proposed Recommendation.

CC.OO.: A promotional framework for OSH must give added value, consistent with the integrated approach set out in the ILO Global Strategy on OSH, and therefore the proposed Convention should call for ratification of Convention No. 155 as a priority as well as the Conventions listed in the annex.

*Sweden.* LO: The purpose of the proposed Convention, which is to promote ratification of relevant existing instruments, should be elucidated. The main Conventions that should be referred to in the Convention are Conventions Nos. 81, 129, 155, 161, 167, 170, 176 and 184 and their respective Protocols, and of these, Convention No. 155

is the most important. The annex to the Recommendation should be attached to the Convention as well.

*Switzerland.* Any links with other relevant OSH Conventions would make the proposed Convention harder to ratify, which is not the intention. In the proposed texts, Articles 1 and 2 merely refer to the principles in Convention No. 155 and other relevant instruments, which is acceptable.

*United Kingdom.* The current texts are acceptable. Any more specific reference could prevent member States that are currently unable to ratify some or all of the existing instruments from ratifying the proposed Convention.

The CBI supports the Government's view.

TUC: The promotional framework instruments should help promote the ratification and effective implementation of relevant existing instruments. Such an approach would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted at the International Labour Conference in 2003. The Convention should call for the ratification of Conventions Nos. 155, 161, 81, 167, 170, 176 and 184, on a priority basis, and the ratification of other Conventions listed in the annex should also be considered. To this end, the annex to the Recommendation should also appear as an annex to the Convention.

*United States. AFL-CIO:* The proposed instruments should serve to enhance and promote the adoption and effective implementation of other existing instruments, as this would be consistent with the integrated approach and the ILO Global Strategy on OSH adopted in 2003. This purpose should be explicitly stated, for instance through a new paragraph in Part II of the Convention. The Convention should also call for the ratification of Convention No. 155 on a priority basis, and also of Conventions Nos. 161, 81, 167, 170, 176 and 184. To reinforce the relationship between the new Convention and existing instruments, the annex to the Recommendation listing existing instruments should also be included as an annex to the Convention.

*Uruguay.* Existing ILO instruments on OSH are fully endorsed and should be referred to in the proposed Convention.

#### *Office commentary*

Most of those who responded to this question underline the importance of establishing a link between the proposed texts and existing ILO instruments on OSH. Several respondents, in particular workers' organizations, emphasize the need to create a strong link. With regard to the manner in which the link should be established, there are different views. Some consider that the draft proposed by the Office is sufficient. Two governments and several workers' organizations consider that this link should be reinforced by modifying the Preamble or by annexing a list of relevant instruments not only to the Recommendation but also to the Convention. Taking these comments into account, the Office has modified the fourth paragraph in the Preamble of the proposed Convention by adding the words "and other instruments of the International Labour Organization relevant to the promotional framework for occupational safety and health" after the reference to Convention No. 155 and Recommendation No. 164. The wording in Article 2(2) has also been aligned accordingly.

**Qu. 2** *Should the basic principles governing a national policy on occupational safety and health be included? If so, please specify.*

*Total number of replies from governments: 36.*

*Affirmative:* 16. Australia, Brazil, Costa Rica, Cyprus, France, Germany, Guatemala, India, Italy, Mexico, Mongolia, New Zealand, Peru, Slovakia, South Africa, Turkey.

*Negative:* 16. Argentina, Austria, Barbados, Canada, China, Hungary, Iceland, Japan, Kenya, Republic of Korea, Lithuania, Malaysia, Netherlands, Norway, Spain, Switzerland.

*Others:* 4. Denmark, Malawi, United Kingdom, Uruguay.

*Argentina.* The basic principles on OSH are implicitly set forth in the proposed texts. However, reference could also be made to what percentage of the national budget is allocated to OSH, and the level of the highest authority for such matters.

*Australia.* Key OSH principles should be set out in Article 2 of the proposed Convention (see Observations on Article 2).

*Austria.* Basic principles should not be included.

*Barbados.* It is not necessary to include basic principles for OSH policy, since these are already clearly stated in Convention No. 155.

*Brazil.* Basic principles should be included, as these define the guidelines for national policy in this area. Their inclusion should also broaden the degree of coverage of workers and the forms of work that have often been excluded.

*CNI:* It is the responsibility of each country to define the basic principles for its own national OSH policies.

*CGTB:* Such principles should not be included because of the risk of placing the protection of workers under the influences of the market.

*Canada.* Basic principles should not be included, since they are included in other ILO instruments, notably Convention No. 155. The reference to Article 4 of Convention No. 155 in Article 1 of the proposed Convention may also be omitted, so as to broaden the term “national policy”.

*CEC:* The basic principles for national OSH policy are best determined by member States, and since Article 1 of the proposed Convention already refers to Article 4 of Convention No. 155, there is no need to include an additional reference to the basic principles.

*CLC:* The basic principles governing a national OSH policy should be specified. They should be derived from, and be consistent with, the principles of national policy in Convention No. 155.

*China.* The text of Article 3 of the proposed Convention is supported, and it is suggested that specific basic principles should not be listed. Because of the differences in national systems, organization and administration, models of management of OSH are also different.

*CEC:* The purpose of the Convention is to promote the setting up of a framework, and individual countries should decide the principles to follow in developing a national management policy for OSH. It is therefore inappropriate to include such a policy in the Convention.

ACFTU: Although they form a promotional framework, these instruments appear to be too sweeping and are not specific enough. Basic principles and contents relating to OSH should be included, even if reflected in other relevant instruments as well. If they are not included, the entitlement of workers cannot be effectively secured in those countries that only ratify this Convention and not other basic OSH Conventions.

*Costa Rica.* It would be appropriate to include a reference to basic principles such as solidarity, equity, justice and social responsibility, because Convention No. 155 does not address these issues. In addition, areas for action such as promotion, ongoing research, establishment of bodies to promote a preventative culture and coordination of national resources should be included.

*Cyprus.* Basic principles governing national policy should be included, such as the existence of suitable legislation on OSH and inspection systems.

CEIF: The proposed text already refers to Article 4 of Convention No. 155, so there is no need to include the basic principles.

*Czech Republic.* ČMKOS: It would be useful to list the basic principles in the proposed Convention, including obligations for Members to analyse and evaluate basic principles of national policy, to adopt short-, medium- and long-term policy objectives, to determine economic instruments in support of national policy and to evaluate information from inspection systems. Policies should also deal with prerequisites for creating conditions to preserve maximum worker capacities – physically, mentally and socially.

*Denmark.* It is not absolutely necessary to specify the basic principles.

LO, FTF: If good practice is to be introduced at national and enterprise levels, it is necessary to specify what “good practice” is, especially for developing countries. Therefore, basic principles consistent with those in Convention No. 155 and its Protocol should be specified under National policy.

*France.* It would be useful to include a reference to the basic principles because national policies are based on them. The reference should include the assessment of occupational risks as far upstream as possible, balanced information and worker consultation and the provision of protection in accordance with national legislation.

CGT-FO shares this view, also noting the importance of highlighting the responsibilities of governments both to enact and to ensure the implementation of relevant legislation.

*Germany.* The most important principle of a national policy is to promote OSH and to further the aims through specific measures, so the basic principles for national policy should be included in the Convention. A national policy may also indicate strategies, as well as subjects referred to in Convention No. 155.

BDA: The proposed text already refers to the principles of Article 4 of Convention No. 155, so it is not necessary to incorporate the basic principles into the text itself.

*Greece.* SEV, ESEE: There is no reason to include basic principles of national policy, as there is already explicit reference to the principles of Article 4 of Convention No. 155.

*Guatemala.* The policy required by the proposed Article 3 would reinforce the development of an OSH culture. The social partners can thus participate in securing a safe and healthy environment through a system of defined rights, responsibilities and duties for all sectors.

*Hungary.* Since political commitment to OSH is best formulated through national policy, the concept of national policy needs to be clarified in order to facilitate uniform interpretation and application. The text of the proposed instruments is necessary and sufficient for this purpose.

*Iceland.* A more detailed description of national policy than is given in the proposed texts is not needed, since that would hinder ratification. However, the ILO could publish guidelines or a code of practice on what constitutes good “national practice”.

ASI: The basic principles governing a national policy on OSH should be specified, so that member States adopt good health and safety practices at national and enterprise levels. Principles consistent with those contained in Convention No. 155 should be specified in the national policy section of the proposed Convention and linked to the national system and programme sections.

*India.* Basic principles governing a national OSH policy should be included, which comprise basic components of an ideal policy and their objectives. This should ensure uniform standards of national policy among member States.

*Italy.* Existing instruments should be taken into account in the section on national policy, because of the importance of having close links between them and the proposed instruments. For example, Article 3 of the proposed Convention could recall the principles contained in Part II of Convention No. 155, including those for training and qualification.

CGIL, CISL, UIL: Basic principles governing a national policy on OSH should be specified, so that member States adopt good health and safety practices at national and enterprise levels. Principles consistent with those contained in Convention No. 155 should be specified in the national policy section of the proposed Convention and linked to the national system and programme sections.

*Japan.* A national policy should be set out in the light of national conditions and practice. The basic principles for doing this are indicated in relevant existing instruments, including the ILO *Guidelines on occupational safety and health management systems* (ILO-OSH 2001).

*Kenya.* It is not necessary to include the basic principles of a national OSH policy, because Convention No. 155 already sets out the contents for such a policy.

*Republic of Korea.* Basic principles should not be included, since the proposed instruments reflect the basic objective and the concept of a national policy.

*Lithuania.* These principles do not need to be included, since they are noted in Convention No. 155, to which there is a reference in Article 1(a) of the proposed Convention.

*Malawi.* The principles of national policy are well articulated under Convention No. 155, and all member States should by now have comprehensive national policies in place for OSH. It makes little difference whether the principles are included or not in the proposed instruments if proper measures to ensure national application and ratification are not in place.

*Malaysia.* It is not necessary to include basic principles in the proposed Convention. It would be sufficient for the Convention to cross-refer to Part III of Convention No. 155.

*Mexico.* OSH is important to the improvement of living and working conditions in Mexico, contributing to improved productivity and competitiveness and promoting trade relations. Relevant legislation is therefore needed, and it is necessary to formulate a series of measures that involve governments, employers and workers. In view of this, it is of utmost importance to include basic principles governing national policies in the proposed instruments.

*Mongolia.* Basic principles should be included, since these will help member States to promote continuous improvement of OSH through the development of national policies, systems and programmes. Such principles will also provide general guidelines for the revision of existing legislation, ensuring consistency with ILO standards.

*Netherlands.* The inclusion of basic principles governing national policy is not supported.

FNV, CNV, MHP: Basic principles governing a national policy should be specified, so that member States adopt good health and safety practices at national and enterprise levels. As a minimum, the proposed Convention should refer to the principles in Convention No. 155, but it would be clearer to list these principles in the proposed Convention. The coherence between national policies, systems and programmes should also be expressed more clearly.

*New Zealand.* The proposed instruments should include basic principles relating to OSH, such as those set out in *The Workplace Health and Safety Strategy for New Zealand to 2015*. This Strategy identifies the principles of prevention, participation, responsibility and practicability – ones that can be drawn from relevant existing instruments such as Convention No. 155 and Recommendation No. 164.

BNZ: Further elaboration of the basic principles is not required since the text already refers to the principles set out in Article 4 of Convention No. 155.

The NZCTU shares the Government's views.

*Norway.* The references to Convention No. 155 in the Preamble and Article 1(a) of the proposed Convention are both adequate and sufficient.

The NHO shares the Government's opinion.

LO: Basic principles consistent with those in Convention No. 155 and its Protocol are necessary. This could be achieved in Part III of the proposed Convention, referring to the content of Convention No. 155 but not being limited to it.

*Peru.* The proposed instruments should include the basic principles governing national policies on OSH, so that governments can feel committed to OSH and give priority to the matter when drawing up national programmes.

*Poland.* Solidarność: Basic principles governing a national policy on OSH should be specified, so that member States adopt good OSH at national and enterprise levels. Principles consistent with those contained in Convention No. 155 should be specified in the national policy section of the proposed Convention and linked to the national system and programme sections.

*Portugal.* CIP: The proposed Convention refers to the principles of Article 4 of Convention No. 155 and there is no justification for further mention of these basic principles.

CGTP: Basic principles should be expressly stated in the proposed Convention, including the right of all workers to a safe and healthy working environment and the

duty of all employers to prevent occupational risks and to promote workers' health, organizing measures and integrating them within all enterprise activities.

*Senegal.* CNTS: The following principles governing a national policy on OSH should be mentioned, which are in line with those in Convention No. 155. These are the avoidance of risks by initial design, installation, use and maintenance, the establishment of sound ergonomic principles, the provision of further training and qualifications, the development of communication and cooperation at all levels, the protection of workers from disciplinary action as a result of actions properly taken, and setting up appropriate and adequate inspection systems.

*Slovakia.* Basic principles governing national policy on OSH should be included, because the transparent expression of such principles is important.

*South Africa.* Basic principles governing national policies should be included, in order to promote such principles as well as the main objectives of the promotional framework. The principles could also serve as guidelines for the formulation of a basic national OSH policy.

*BUSA:* The proposed text already refers to the principles of Article 4 of Convention No. 155. Therefore there is no need to include the basic principles.

*Spain.* It is not necessary to include basic principles, as the proposed Convention must be flexible and general in nature.

*CC.OO.:* Basic principles governing national OSH policy should be specified in terms of models, strategies, tools and resources required. Such principles should be specified in the section on national policy and be linked to the sections on national systems and programmes.

*Sweden.* LO: Basic principles governing national OSH policy and equivalent to those laid down in Convention No. 155 should be specified. Such instruments are particularly important in supporting countries with poorly developed OSH legislation.

*Switzerland.* The proposed Convention cannot extend the fundamental principles in Convention No. 155, and it is quite unnecessary to draw attention to them.

*Turkey.* The basic principles governing national policy on OSH could be added to the Recommendation. The principles to be included are the definition of the situation, descriptions of the sectors influenced by problems, specific indications of which problem is to be resolved by which policy and listing of problems by order of priority.

*United Kingdom.* The basic principles should be included, as currently defined in the proposed texts.

The CBI supports the Government's view.

*TUC:* Basic principles governing national OSH policy and equivalent to those laid down in Convention No. 155 and its Protocol should be specified. This is particularly important for developing countries that do not have a strong legislative framework.

*United States.* AFL-CIO: Basic principles governing a national policy on OSH should be specified so that member States adopt good health and safety practices at national and enterprise levels. This is particularly important for developing countries that do not have a strong legislative framework. Principles consistent with those contained in Convention No. 155 should be specified in the national policy section of the proposed Convention and linked to the national system and programme sections. In addition, a

section on national policy should be added to the Recommendation, so that it is consistent with the Convention.

*Uruguay.* The basic principles to be reflected in national OSH policies are already implicit in the proposed texts. These could be supplemented with an indication of the structure of the national authority.

*Office commentary*

The 36 responses from governments are evenly divided between those in favour of elaborating policy principles and those that consider further elaboration to be unnecessary. Among those who support the inclusion of policy principles, only a few governments provide concrete suggestions concerning elements to be included.

The replies received from workers' organizations indicate strong support for the need to include provisions reflecting, inter alia, the principles in Convention No. 155 concerning a national policy on OSH, as these principles are critical to improving OSH.

Responses from employers' organizations demonstrate that in their view the reference to Convention No. 155 in Article 1(a) of the proposed Convention is sufficient and that a repetition of the provisions in existing Conventions might defeat the purpose of this Convention as it would make it harder to ratify.

Against this background, the Office does not propose any modification to the existing provisions in respect of national policy.

**Qu. 3** *Concerning workplace measures, should any specific issues of prevention, such as indication of rights, duties and responsibilities, information and training, and workplace safety and health committees, be included? If so, please specify.*

*Total number of replies from governments: 34.*

*Affirmative:* 12. Argentina, Brazil, Costa Rica, Cyprus, Guatemala, Italy, Kenya, Mexico, Peru, South Africa, Turkey, Uruguay.

*Negative:* 18. Australia, Austria, Barbados, Canada, China, Denmark, Germany, Iceland, India, Japan, Republic of Korea, Lithuania, Malaysia, Netherlands, New Zealand, Norway, Spain, Switzerland.

*Other:* 4. France, Hungary, Mongolia, United Kingdom.

*Argentina.* It is vital to include in the instruments provisions about rights, duties, responsibilities, information, training and committees, as dealt with in Convention No. 155 and Recommendation No. 164.

*Australia.* There is no need to include specific prevention issues.

*Austria.* Specific issues of prevention should not be included, since there are already lists of rights, duties, etc. in Convention No. 155 and because workers' general rights are covered in the ILO fundamental Conventions.

*Barbados.* Specific issues of prevention should not be included, since the proposed instruments provide a broad promotional framework through which the existing instruments may be applied.

*Brazil.* Workplace measures should be included, so that the national policy can be readily implemented at the workplace level.

CNI: Prevention issues are satisfactorily addressed by the ILO *Guidelines on occupational safety and health management systems*.

*Canada*. Relevant instruments addressing workplace measures are already referenced and it is not necessary to include prescriptive details in a promotional framework Convention. Moreover, including such details would make the Convention harder to ratify.

CEC: The definition of a national OSH culture refers to specific issues of prevention, including a system of defined rights, responsibilities and duties. The proposed Convention is not about rights, however, but provides a tripartite promotional framework for OSH, and as such gives a measure of flexibility. So specific issues of prevention should not be included.

CLC: Specific issues of prevention, such as an indication of rights, duties and responsibilities, information and training and workplace OSH committees should be included in the Convention. These include the rights of workers and their representatives as articulated in Convention No. 155. Government responsibilities should include the enactment and enforcement of legislation.

*China*. It would be inappropriate to include specific measures for workplaces because of the differences in economic resources and legislation between different countries. However, it would be appropriate to put forward minimum requirements, and some reference to specific measures could be included in the Recommendation (see Observations on Paragraph 3(f)).

CEC: In view of the differences in enterprise conditions and legal and social environments in each country, the Convention does not need to list specific issues of preventive measures at the enterprise level.

ACFTU: At the International Labour Conference in 2005, attention was focused on action at the national level to advance, promote and raise awareness of OSH. At the next discussion of the instruments, the main requirement should be to promote OSH at the workplace level.

*Costa Rica*. Reference could be made to Convention No. 155, which sets out areas for policy action by enterprises. As a useful tool for implementing measures at the enterprise level, safety and health committees should be included too.

*Cyprus*. An outline of the basic issues, such as duties and responsibilities, training, workplace safety and health committees, etc., could be included.

CEIF: There are numerous existing instruments covering all workers and activities, and including such measures in the proposed instruments would dilute their message.

*Czech Republic*. ČMKOS: The proposed Convention should address relevant issues of prevention, including the rights and obligations of workers, the responsibilities of governments and employers, and an obligation to cooperate mutually, to inform and consult, and to stop work in the event of danger.

*Denmark*. Specific issues of prevention should not be included, since these issues are already covered by existing ILO Conventions.

LO, FTF: A more detailed reference to employee rights is necessary in the instruments, since prevention is a prerequisite to reducing workplace accidents. Therefore, the Convention should emphasize the participation and representation of workers at all levels in the development of preventative initiatives, instruction,

education, training and information, access to occupational medical services, and the right to leave dangerous working situations.

*France.* It would be better to allow member States a degree of latitude in deciding how to implement the instruments in concrete terms, given that the integrated approach is intended to promote OSH through combinations of different instruments.

*CGT-FO:* It is essential for the instruments to have closer links with the workplace. The establishment of consultative bodies such as safety committees should be promoted and occupational health services and training should be available for all employees. Emphasis should also be placed on assessing and managing hazards and risks in the workplace, and as part of national programmes.

*Germany.* Since the new Convention is intended to be a framework, it should not include provisions about specific preventative workplace measures. Such matters are dealt with in existing OSH instruments or can be in new or amended ones.

*BDA:* All workers and all activities are already covered by numerous OSH instruments, so to include issues of prevention in the proposed instruments would repeat existing provisions, would detract from the promotional framework's goal of strengthening political will to enhance OSH and would undermine the value of such a forward-looking instrument.

*Greece. SEV, ESEE:* No special measures concerning workplaces should be included, since such measures are already covered in existing Conventions and Recommendations. Their inclusion in the proposed instruments would derogate from the initial objective of the promotional framework to encourage political commitment to the improvement of OSH and would generally undermine the value of the framework.

*Guatemala.* The proposed Convention provides a general framework for responsibilities, information and training so that each country can establish its own regulations and technical standards. It would therefore be appropriate to include safety and health committees as specific measures through which OSH can be promoted and accident and disease prevention programmes developed.

*Hungary.* The fundamental goal of political commitment to OSH would not be served by creating another OSH instrument with provisions on specific workplace measures that have already been formulated in other Conventions which have been neither widely ratified nor implemented. It is thus advisable to refrain from references to specific workplace measures.

*Iceland.* The proposed texts cover consultation and cooperation between the social partners on prevention issues and it is not necessary to extend further the scope of these provisions. If agreement could be reached, fundamental rights and obligations could be included in the proposed Recommendation.

*ASI:* The rights and responsibilities of governments, employers and workers should be addressed in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate OSH training, and that of governments to enact and enforce legislation.

*India.* Specific issues of prevention, such as indication of rights, duties and responsibilities, information and training and workplace OSH committees, should not be

included. Such issues may be dealt with by member States in accordance with national law and practice.

*Italy.* Specific workplace measures should be included since prevention is fundamental to an effective occupational safety policy. Among measures to be included, particular emphasis should be placed on risk assessment, providing workers with information and training, giving priority to collective rather than individual protection measures, health inspection and health measures.

*CGIL, CISL, UIL:* The rights and responsibilities of governments, employers and workers should be addressed in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate training, and that of governments to enact and enforce legislation.

*Japan.* Specific issues of prevention should not be included, because of the curtailed framework nature of the proposed Convention and Recommendation.

*Kenya.* To ensure safety and health at the enterprise level, the proposed instrument should include duties and responsibilities, such as the duty of employers to provide information and training to workers and managers. The proposed instrument should also place an obligation on employers to establish workplace safety and health committees.

*Republic of Korea.* Specific workplace measures should not be included since concrete standards for OSH already exist in other Conventions.

*Lithuania.* Specific issues of prevention should not be included, as this is outside the scope of the proposed instruments.

*Malaysia.* It is not necessary to mention specific issues of prevention, since a cross reference can be made to Article 20 of Convention No. 155.

*Mexico.* Specific issues of prevention are essential elements, therefore it is important to include them in the proposed instruments.

*Mongolia.* Specific prevention issues should be included, such as improving legislation, defining responsibilities, developing training mechanisms and establishing integrated structures with a range of social partners so as to improve OSH. Increasing the coverage of labour inspection, improving statistics, providing access to better OSH information, organizing campaigns to promote OSH culture at the enterprise level and assisting in the establishment of OSH management systems could all be considered.

*Netherlands.* Specific workplace measures should not be included.

*FNV, CNV, MHP:* The rights and responsibilities of governments, employers and workers should be addressed in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate OSH training, and that of governments to enact and enforce legislation. A strong link with Convention No. 155 makes it possible to take on board all these rights, duties and responsibilities.

*New Zealand.* Given that the aim is to develop a promotional framework that complements existing instruments, it is not necessary or desirable for specific issues of prevention to be included.

BNZ does not support identifying rights and responsibilities in the proposed framework because they are already adequately identified in relevant existing instruments.

NZCTU: The promotional framework should identify the key principles of successful prevention and protection as well as the respective rights and responsibilities of employers and workers consistent with those principles.

*Norway.* It is not necessary to include or specify any issues of prevention, since this would repeat the provisions of other instruments. Since this is a “promotional framework Convention”, the mention of such issues could easily draw attention away from the original intention of the Convention, which was to ensure that priority was given to OSH in national agendas and to promote a management system approach.

The NHO shares the above view.

LO: There is a need to include rights and duties for governments, employers and workers in the proposed texts, and specifically to include workplace safety and health committees. These rights and duties should include, in particular, the right of workers to participate in the development of preventative initiatives, training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate training, and that of governments to enact and enforce legislation

*Peru.* The Government agrees that, when necessary, specific issues of prevention should be included, such as rights, duties and responsibilities, information and training and health and safety committees. In this way, the proposed instruments can serve as a guide, and those countries that have not yet drawn up their own legislation can be governed by these agreements.

*Poland.* Solidarność: The rights and responsibilities of governments, employers and workers should be addressed in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate training, and that of governments to enact and enforce legislation.

*Portugal.* CIP: Existing OSH Conventions and Recommendations cover all workers and all sectors of activity, and including specific issues of prevention would simply lead to repetition. Such repetition would weaken the main aim of the promotional framework, which is to foster political commitment to improving OSH conditions.

CGTP: All the measures mentioned in the Office question should be expressly laid down in the new instruments, in addition to further emphasis on the links between workplaces and employers. In the opinion of the CGTP, the principal shortcoming of the proposed Convention is its apparent failure to confer on any persons specific responsibilities for compliance with its provisions.

*Senegal.* CNTS: It is essential to address the rights and responsibilities of workers, employers and governments in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to occupational health services, to avoid dangerous situations and to cooperate with employers in the promotion of OSH. Employers' responsibilities are to ensure safe working environments, to carry out risk assessments, to provide adequate and appropriate training for workers and to halt operations where there are imminent or serious risks to safety or health. Government responsibilities include the ratification and implementation of all ILO instruments concerning OSH.

*South Africa.* Prevention is the proactive part of OSH promotion and it is therefore crucial to include specific workplace measures. Emphasizing the rights of workers, information and training can only assist prevention and promote OSH at the workplace.

*BUSA:* To include specific workplace prevention measures would be to ignore the desire of the Governing Body for a new approach. Furthermore, all workers and all activities are already covered by one of the numerous Conventions and Recommendations already in existence. To introduce these matters would simply be a repetition of what is already provided for. The promotional framework is supposed to foster political commitment to an improvement to OSH. To include these matters is to dilute the focus and undermine the true value of the promotional framework.

*Spain.* These issues should not be included, firstly because they are dealt with in other instruments, secondly because including them would be at odds with the intended promotional nature of the instrument and thirdly because their inclusion would result in poor ratification of the Convention.

*CC.OO.:* Participation is crucial to reducing the incidence of injuries and diseases at work, so it is necessary to specify rights and responsibilities. These should include the right of workers to participate in the development of preventative initiatives, to training and information, to have access to health services and making them available, and to the prevention of situations at the workplace that pose risks to life or health. Employer responsibilities include ensuring safe working environments, carrying out risk assessments and prevention planning, providing appropriate training, monitoring employees' health and stopping operations where there are serious and immediate risks. Government responsibilities are to ensure that obligations and rights are respected by providing adequate resources.

*Sweden.* LO: The rights of employees and their representatives in connection with work environment issues need to be more clearly defined, as do the responsibilities of public authorities and employers. Employees and their representatives must be entitled to participate and be represented at all levels in OSH issues, to training, information and cooperation on OSH matters, to access to occupational health services and to withdraw from dangerous situations. Employees' responsibilities to comply with OSH measures should also be included, as should employers' duties to ensure safe working environments, to make risk assessments, to provide appropriate OSH training and to stop dangerous work processes. Public authority responsibilities include a duty to issue legislation and monitor compliance with it.

*Switzerland.* In accordance with the Conclusions of the International Labour Conference in 2003, the proposed instrument should contain only very general principles and should not include prescriptive details.

*Turkey.* Detailed responsibilities should be included. Employers' duties include the prevention and assessment of risks and their elimination at source, adaptation to safer technologies, the development of prevention policy, training and instructions for workers and consulting them. Workers' duties include operating plant and machinery properly and using protective equipment, drawing dangerous developments to their employer's attention, and coordinating with employers, inspectors and OSH representatives to implement safe and healthy working conditions.

*United Kingdom.* The current texts of the proposed instruments are acceptable. No further additions are necessary.

The CBI shares the above view.

TUC: The rights and responsibilities of workers, employers and governments should be addressed in the proposed texts. These should include, in particular, the right of workers to participate in the development of preventative programmes, to training, education, information and consultation, to have access to health services and to remove themselves from dangerous situations. The duty of workers to comply with OSH measures should also be included, as should that of employers to ensure safe working environments, to carry out risk assessments and to ensure adequate and appropriate OSH training, and that of governments to enact and enforce legislation.

*United States. AFL-CIO:* For a promotional framework to be effective, it must be linked to the workplace and bring about improvements in OSH where workers are exposed. Active measures of prevention therefore need to be promoted and implemented, and workers' rights and duties and employers' and governments' responsibilities should be addressed. These include, in particular, the right of workers to participate in the development of prevention initiatives, training and education, information and consultation, to have access to occupational health services and to remove themselves from dangerous work situations. The duty of workers to comply with OSH measures should also be included. Employers' duties include ensuring safe and healthy working environments, carrying out risk assessments and ensuring adequate and appropriate training. Government responsibilities include enacting and enforcing legislation and effectively implementing national OSH programmes.

*Uruguay.* Although these issues are specifically referred to in many relevant existing ILO instruments, it is imperative to include the elements in Convention No. 155 and Recommendation No. 164, since they are essential for the promotion and implementation of preventive measures in the workplace.

#### *Office commentary*

Twelve governments and workers' organizations consider that it is important to include provisions in this Convention concerning workplace measures. The majority of the responding governments – 18 governments – as well as the employers' organizations consider that the proposed texts should not be modified. Based on this majority of views, the Office has not introduced any additional provisions concerning workplace measures.

### 3. Observations on the proposed Convention on the promotional framework for occupational safety and health

#### *Observations on the title*

*Canada.* CEC: Reserve judgement on using the term “promotional framework for occupational safety and health” because the notion of “promotional framework” is new and it must be ensured that the use of the term is consistent with a model for a promotional framework that will work in other contexts in the future.

*France.* CGT-FO: It would be more appropriate to refer more explicitly to the essential standard-setting content of the instrument. The term “promotional framework” should not be interpreted as limiting the scope of the Convention to the definition of general guidance, which allows a certain degree of flexibility as regards the implementation of the corresponding instruments. The title “Convention for strengthening occupational safety and health” is considered to be more appropriate.

*Canada (CLC), Denmark (Government, LO, FTF), Hungary (employee side of the National Reconciliation Council), Iceland (ASI), Italy (CGIL, CISL, UIL), Japan (JTUC-RENGO), Lebanon, Mexico, Netherlands (FNV, CNV, MHP), Papua New Guinea, Poland, Portugal, Spain (CC.OO.), Sweden, Switzerland, Tunisia, and United Kingdom (TUC).* The title of both instruments should include “promotional framework for occupational safety and health”.

#### *Office commentary*

There is general support for the proposed titles of the instruments to include the expression “promotional framework for occupational safety and health”. Therefore, the titles of the proposed instruments appear without change.

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 Ninety-fifth Session on 30 May 2006,

Recalling that the protection of workers against sickness, disease and injury arising out of their employment is one of the core tasks assigned to the International Labour Organization under its Constitution, and

Noting paragraph III(g) of the Philadelphia Declaration which provides that the International Labour Organization has the solemn obligation to further among the nations of the world programmes which will achieve adequate protection for the life and health of workers in all occupations, and

Noting the Occupational Safety and Health Convention, 1981 (No. 155), and the Occupational Safety and Health Recommendation, 1981 (No. 164), and

Recalling that the promotion of occupational safety and health is part of the International Labour Organization’s core objective of decent work for all, and

Recalling the Conclusions concerning occupational safety and health adopted by the 91st Session (2003) of the International Labour Conference, in particular the priority to be given to occupational safety and health in national agendas, and

Stressing the importance of the continuous promotion of a national preventive safety and health culture, and

Having decided upon the adoption of certain proposals on occupational safety and health, 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 day of June two thousand and six the following Convention, which may be cited as the Promotional Framework for Occupational Safety and Health Convention, 2006.

#### *Observations on the Preamble*

*Canada.* Add in the Preamble: “Noting the importance of relevant ILO instruments in the area of occupational safety and health,”.

*Denmark.* The Office text is accepted.

*Lebanon.* The Preamble may also refer to Conventions Nos. 161 and 171. It is also proposed to amend paragraph 6 to read as follows: “Recalling that the promotion of occupational safety and health, reviewed by different International Labour Conventions and Recommendations, constitutes a part of the International Labour Organization’s core objective ...”.

*Mexico.* The proposed text is agreed.

*Papua New Guinea* agrees with the proposed text.

*Peru.* In the third paragraph of the Preamble, delete the words “be they occupational or not” (Spanish version only).

*Portugal.* CGTP: The articulation of the link between the proposed new instruments and instruments already in the field of OSH should be made very clear and should be set out in the Preamble.

*Sweden* agrees with the proposed text.

*Switzerland.* The Preamble must be limited to what is proposed in the existing text and must not be extended by any reference to other Conventions and Recommendations.

UPS: The link between the promotion of OSH and such a vague concept as “decent work”, in the sixth paragraph of the Preamble, should be avoided.

*Tunisia.* The Preamble should also refer to the ILO *Guidelines on occupational safety and health management systems* (ILO-OSH 2001), which is referred to in Paragraph 4 of the Recommendation.

*Workers’ organizations.* Similar views were shared by CGT RA (*Argentina*), CLC (*Canada*), ČMKOS (*Czech Republic*), LO, FTF (*Denmark*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), Solidarność (*Poland*), CNTS (*Senegal*), CC.OO. (*Spain*), LO (*Sweden*), TUC (*United Kingdom*) and AFL-CIO (*United States*), that the Preamble should also refer to the ILO fundamental Conventions, namely Conventions Nos. 29, 87, 98, 100, 105, 111, 138 and 182, and to key ILO Conventions for OSH, namely Nos. 81, 155, 161, 167, 176 and 184 and their accompanying Recommendations. These OSH Conventions and Recommendations are the key instruments that set the framework for safety and health systems, protection, rights and responsibilities, and address the most hazardous industries where the majority of deaths, injuries and illnesses occur.

#### *Office commentary*

In response to the comment made by the Government of Peru concerning the third paragraph of the Preamble, the Office has reviewed the manner in which the ILO Constitution was reflected in the English, French and Spanish language versions of this paragraph in the Preamble and it has noted certain inconsistencies. However, the suggestion by the Government of Peru to delete the qualifying phrase “be they

occupational or not”, regarding diseases, would run counter to the actual text of the Constitution. The Office has instead, where relevant, corrected the various language versions of this paragraph of the Preamble to reflect the actual text of the Constitution.

As regards the fifth paragraph of the Preamble, some respondents, in particular workers’ organizations, reiterate views that they expressed during the first discussion of this instrument at the 93rd Session (2005) of the International Labour Conference, namely that reference should be made not only to Convention No. 155 and Recommendation No. 164, but also to other ILO instruments relevant in the context of the proposed Convention. Accordingly, it was proposed to include reference not only to the most up-to-date OSH Conventions – notably Conventions Nos. 81, 155, 161, 167, 170, 176 and 184 – but also to the ILO fundamental Conventions. Other respondents prefer the Convention be kept as simple and easy to ratify as possible and consider that including a long list of instruments in the Preamble might make member States more reluctant to ratify it. The Office notes that proposals are also made to refer to relevant instruments by attaching to the Convention the same annex as is already attached to the Recommendation. Taking all these comments into account, the Office has modified the fifth paragraph in the Preamble by adding the words “and other instruments of the International Labour Organization relevant to the promotional framework for occupational safety and health” after the reference to Convention No. 155 and Recommendation No. 164.

In the sixth paragraph the words “core objective” have been replaced by “agenda”.

In the seventh paragraph, the wording has been changed to refer to the exact title of the Conclusions adopted by the 91st Session (2003) of the International Labour Conference. A drafting change has also been introduced to better align the text with the Conclusions by inserting the words “relating to ensuring that” after the words “in particular”.

The ninth paragraph has been reformulated to use the standard wording of “with regard to” instead of “on”.

The Preamble, as amended, appears as the Preamble of the proposed Convention.

#### *Observations on the scope of the Convention*

Two governments and several workers’ organizations – CGT RA (*Argentina*), CGT-FO (*France*), *Greece*, ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), *Norway*, Solidarność (*Poland*), CNTS (*Senegal*), CC.OO. (*Spain*), LO (*Sweden*), TUC (*United Kingdom*) and AFL-CIO (*United States*) – shared the view that a new section addressing the scope of the Convention should be introduced and that the Convention should clearly provide that it applies to all branches of economic activity.

#### *Office commentary*

The Office notes the views expressed by the two governments and several workers’ organizations in favour of introducing a new provision providing that the Convention should apply to all branches of economic activity. However, as the other respondents have not commented on this matter, the Office has not introduced such a provision and leaves it for the Conference to consider if it wishes to do so.

## I. DEFINITIONS

### *Article 1*

For the purpose of this Convention:

- (a) the term “national policy” refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);
- (b) the term “national system for occupational safety and health” refers to the infrastructure which provides the main framework for implementing national programmes on occupational safety and health;
- (c) the term “national programme on occupational safety and health” refers to any national programme that includes objectives, priorities and means of action formulated to improve occupational safety and health, to be achieved in a predetermined time frame;
- (d) the term “a national preventive safety and health culture” refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where governments, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

### *Observations on Article 1*

*Austria.* Article 1(b). Austria favours removing all references to the national programme from the Convention, so the words “implementing national programmes” should be deleted. For the same reason, Article 1(c) should be deleted.

*Canada* seeks clarification of the term “national”. It notes that Recommendation No. 97, Paragraph 19, provides the following definition: “Where the term ‘national’ is used in this Recommendation in reference to laws, regulations, or authorities, it shall be understood, in the case of a federal State, to refer, as appropriate, to the federal, state, provincial, cantonal or other competent governmental unit.” If the definition in Recommendation No. 97 is not the usually accepted one, Canada wishes to include a definition of “national” in these texts.

Article 1(a). Delete “Article 4 of” so that the reference to Convention No. 155 is more general.

Article 1(c). Delete “to be achieved in a predetermined time frame”.

*France.* CGT-FO: The term “occupational health” should be defined, to include workers’ mental health as well as their physical health.

*Germany.* Article 1(a) should end with the words “working environment” and the subsequent clause “developed in accordance with ... etc.” should be incorporated into Article 3(1) as an indication of the requisite content of national policy.

*Lebanon.* Article 1(a). A definition of “national policy” should be set out in full, in order to facilitate the reference to Article 4 of Convention No. 155.

*Malaysia.* Article 1(b). After the word “implementing”, add “the national policy and”.

MEF: Article 1(c). After “means of action formulated to”, add “continually”.

MEF: Article 1(d). Replace “the principle of prevention is accorded the highest priority” with “the principle of prevention as far as possible is accorded”. The term “working environment” should be defined.

*Panama.* The term “national policy” should be defined.

*Tunisia.* The term “indicators of progress” should be defined.

### *Office commentary*

The observations reflect general support for the contents of Article 1. As regards the definitions in Article 1(b) and (c), noting that the proposed texts use both the shorter terms “national system” and “national programme” and the longer terms “national system for occupational safety and health” and “national programme on occupational safety and health”, these provisions have been modified to accommodate both versions of these terms.

As regards the clarification sought by the Government of Canada concerning the meaning of the term “national” in relation to federal States, the Office notes that, in principle, the special situation of federal States with respect to Conventions and Recommendations is taken into account by Article 19, paragraph 7(b), of the Constitution of the International Labour Organization, which adapts the obligations arising from Conventions to the particular situation of federal States, when the matter falls within the jurisdiction of the constituent states, provinces or cantons. Hence, it is clear that the term “national” in phrases such as “national laws and regulations” refers to federal or state/provincial laws or regulations, as applicable under the constitutional system of the Member concerned. The word “national” is used in opposition to international and does not imply “federal”.

The Article, as amended, appears as Article 1 of the proposed Convention.

## II. OBJECTIVE

### *Article 2*

Each Member which ratifies this Convention shall take active steps towards achieving progressively a safer and healthier working environment through national programmes on occupational safety and health by taking into account the principles in relevant ILO instruments on occupational safety and health.

### *Observations on Article 2*

*Australia.* The inclusion of key OSH principles in Article 2 would be consistent with the fundamental purpose of the Convention, which is to promote awareness of OSH issues and principles and implement sound practice. Article 2 should be amended by adding, at the end of the Article: (1) the development and implementation of national OSH policy in consultation with employers’ and workers’ organizations; (2) periodic review of the policy, as appropriate; (3) guidance to employers and workers on their legal obligations; (4) enforcement of laws and regulations through a system of inspection and appropriate penalties; (5) the right of workers to remove themselves from dangerous work situations; and (6) the promotion of sound safety and health practice through education and awareness programmes.

ACTU: Article 2 should include, as an objective, a statement about reducing injuries and fatalities with a national vision of achieving workplaces free from death, injury and disease. While achieving a “safer and healthier working environment through national programmes” is an important aspirational goal, reducing fatalities and injuries provides a clear, measurable objective.

*Austria.* Since Austria favours removing references to the national programme from the Convention, “through national programmes on occupational safety and health” should be deleted.

*Germany.* The objective of the Convention is defined with reference to national OSH programmes. This is not consonant with the structure of the Convention, which is based on a national OSH policy, a national OSH system and a national OSH programme, as mutually interdependent and reinforcing measures. Each of these elements is vital to attain the objective set out in Article 2 and it should be amended accordingly. Otherwise, the words “through national programmes on occupational safety and health” should be deleted.

*Lebanon.* Member States should be guided by the principles set out in relevant ILO instruments on OSH whether or not they have ratified them, and according to national circumstances.

*Malaysia.* After “working environment through” add “periodical review of the effectiveness of the”.

*Netherlands.* FNV, CNV, MHP: Article 2 should be amended to read as follows: “Each Member which ratifies this Convention should take active steps towards achieving progressively a safer and healthier working environment through national programmes on occupational safety and health by taking due account of, building upon and integrating the basic principles in relevant ILO instruments on occupational safety and health listed in the annex.”

*Philippines.* After the words “healthier working environment through”, add “a national policy and a harmonized national programme or”.

*Senegal.* CNTS: The following new paragraph should be added: “Ratification of this Convention shall automatically entail that of other relevant ILO instruments dealing with occupational safety and health.”

*Workers’ organizations.* Similar views were shared by CGT RA (*Argentina*), LO, FTF (*Denmark*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), LO (*Norway*), Solidarność (*Poland*), CC.OO. (*Spain*), TUC (*United Kingdom*) and AFL-CIO (*United States*), that one of the objectives of the Convention should be to advance the development of a national preventative safety and health culture based on the principles of assessment and management of hazards in the workplace.

#### *Office commentary*

The observations indicate a generally shared support for the substantive content of this section. Based on the comment by the Government of Germany that parts of Article 3 do not match the title of the section “National policy”, the Office has reviewed the respective provisions and considers that former Article 3.2 fits better in Article 2. Therefore former Article 3.2 has been moved to Article 2 as a new Article 2.1, with the replacement of the words “on a tripartite basis” with the more precise words “in consultation with the most representative organizations of employers and workers”, recalling similar provisions in other relevant instruments on occupational safety and health including, in particular, Convention No. 155.

With the above modification, former Article 2 has become Article 2.2, and the term “a safer and healthier working environment” has been replaced by “a safe and healthy working environment” in order to make it consistent with the term used in Article 3.1. In

addition, as noted previously, the words “ILO instruments” were replaced with the words “instruments of the International Labour Organization”.

With these modifications, the Article appears as Article 2 of the proposed Convention.

### III. NATIONAL POLICY

#### *Article 3*

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.

2. Each Member shall promote continuous improvement of occupational safety and health by the development, on a tripartite basis, of a national policy, national system and national programme.

3. Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

#### *Observations on Article 3*

*Austria.* Article 3(2). Since Austria generally favours removing the national programme from the Convention, the words “national programme” should be deleted.

*Brazil.* CGTB: Articles 3(1) and 3(3). The expression “working environment” should be replaced by “working environment and process”.

Article 3(2). Insert the word “sustainable” before “development”.

*Germany.* The heading “III. National policy” is not appropriate since Articles 3(2) and 3(3) also deal with other aspects. The content of Article 3 should be adjusted in line with the modified Article 2.

Article 3(1). See Germany’s comment in the Observations on Article 1(a). The phrase “developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155)” would then appear at the end of Article 3(1).

Article 3(3) is unclear. Furthering the right of workers to healthy conditions of work is at least implied by the obligations in Articles 2, 4 and 5. Since Article 3(3) emphasizes the need for measures “at all relevant levels”, these should be defined in specific terms.

*Hungary.* Article 3 should include full details of the workplace arrangements necessary for protection, and the rights and obligations of appointed OSH representatives of employees and of the members of OSH committees.

*Italy.* Confartigianato: Article 3(2). Add “balanced” immediately before the words “tripartite basis”, to prevent policies from being developed through consultations that are only theoretically tripartite.

*Lebanon.* An additional paragraph is proposed: “Each member State shall establish a framework concerning the responsibilities of employers and workers, and promote and advance occupational safety and health.” This would be consistent with the many ILO Conventions on OSH that determine employer and worker responsibilities.

*Netherlands.* FNV, CNV, MHP: At the end of Article 3(3), add: “This right is made concrete in the coherent package, contained in the Occupational Safety and Health

Convention, 1981 (No. 155), of workers' rights and duties, employers' responsibilities and governments' responsibilities."

FNV, CNV, MHP: After Article 3(3), add a new paragraph: "The national policy should be consistent with the principles of the national policy in the Occupational Safety and Health Convention, 1981 (No. 155) and other relevant ILO instruments on occupational safety and health as listed in the annex." The annex currently included in the Recommendation should also appear as an annex to the Convention.

FNV, CNV, MHP: After Article 3(3), add a second new paragraph: "In the national policy, each Member shall take steps to implement and to give effect to the Occupational Safety and Health Convention, 1981 (No. 155) and other ILO instruments on occupational safety and health listed in the annex."

*Norway.* National policy should include the establishment of tripartite cooperation and be developed based on such cooperation.

The NHO finds this unnecessary since it is already covered by Article 3(2).

The LO agrees with the Government's above comment and believes Part III of the Convention should refer to the setting up of tripartite bodies whose function should be to provide advice to the competent authorities on OSH, to review national laws and regulations on OSH, to assess progress in achieving a safer and healthier working environment and to promote a preventative safety and health culture.

*Papua New Guinea.* The Government supports the proposed text, pointing out the importance of the tripartite basis upon which the national policy will be drawn up. The provisions of Part III will help the Government to develop and formulate its own national OSH policy.

*Sweden.* Article 3(2). Replace "on a tripartite basis" with "in consultation with the most representative organizations of employers and workers".

*Workers' organizations.* Similar views were shared by CGT RA (*Argentina*), LO, FTF (*Denmark*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), LO (*Norway*), Solidarność (*Poland*), TUC (*United Kingdom*) and AFL-CIO (*United States*), that in the policy section of the Convention, reference should be made to the establishment of tripartite bodies, whose function should be to provide advice to the competent authorities on OSH, to review national OSH legislation, to assess progress in achieving a safer and healthier working environment and to promote a preventative safety and health culture. This fully accords with the ILO Global Strategy on Occupational Safety and Health.

#### *Office commentary*

The observations on Article 3 reflect the different views already addressed in the context of the replies to Questions 1-3. While several workers' organizations consider that this section of the Convention should include provisions specifying the substantive content that national policies on occupational safety and health should have, the views held by the majority of the respondents indicate a support for the current formulation. The Office has therefore not added any new provisions to this Article.

As previously noted, Article 3(2), has been moved to become Article 2(1), in the proposed Convention.

The Article, as amended, appears as Article 3 of the proposed Convention.

## IV. NATIONAL SYSTEM

*Article 4*

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with representative organizations of employers and workers.

2. The national system for occupational safety and health shall include among others:

- (a) laws, regulations, collective agreements or any other relevant instrument on occupational safety and health;
- (b) an authority or body, or authorities or bodies responsible for occupational safety and health, designated in accordance with national law and practice;
- (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and
- (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.

3. The national system for occupational safety and health shall include, where appropriate:

- (a) information and advisory services on occupational safety and health;
- (b) the provision of occupational safety and health training;
- (c) occupational health services in accordance with national law and practice;
- (d) research on occupational safety and health;
- (e) a mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account relevant ILO instruments;
- (f) provisions for collaboration with relevant insurance schemes covering occupational accidents and diseases; and
- (g) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-, small and medium-sized enterprises.

*Observations on Article 4**Observations on Article 4(2)(a)*

In Report IV(1), the Office drew attention to the wording in Article 4(2)(a) as it had been modified from the standard formulation used in ILO instruments.

The following member States specifically stated their support for the Office text: *Canada, Mexico, Portugal, Sweden and Tunisia*.

The following member States and workers' organizations stated their preference for the standard ILO formulation "laws and regulations, or collective agreements, or any other relevant instruments": LO, FTF (*Denmark*), Finland, CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), JTUC-RENGO (*Japan*), FNV, CNV, MHP (*Netherlands*), Solidarność (*Poland*), CC.OO. (*Spain*), Switzerland and TUC (*United Kingdom*).

Other comments on Article 4(2)(a) were:

*Italy*. Confartigianato: Add "standards, best practices and guidelines" after the words "collective agreements".

*Lebanon.* Article 4(2)(a) should be reworded: “laws, regulations, collective agreements or texts from any other relevant instrument on occupational safety and health, which the State considers judicious to take into account its principles”.

*Malaysia.* After “any other relevant”, add “national”.

MEF: Instead of “collective agreements” refer to “codes of practice, guidelines”.

*Switzerland.* UPS: The reference to collective agreements must be understood as a reference to an option freely chosen by the parties concerned.

#### *Observations on other paragraphs in Article 4*

*Argentina.* Article 4(3)(e) and 4(3)(f). The concept of diseases should be broadened and the phrase “occupational and work-related diseases” should be added in Article 4(3)(e). Reference should be made to insurance schemes (welfare and monetary benefits) in Article 4(3)(f), since they form part of the broad concept of prevention as it relates to workers’ health.

CGT RA: Article 4(2)(c) should be reworded to clearly establish that the role of the State to ensure OSH standards is fundamental and cannot be delegated, that the State should carry out monitoring in an active, ongoing and coherent manner and effectively sanction non-compliance, and that inspection systems should be provided with sufficient human and financial resources to function effectively.

*Australia.* Article 4(2)(c) needs to be qualified or placed as a separate point. While high-level OSH policy should be developed in a tripartite manner, operational issues, such as compliance and inspections, are matters for governments.

*Austria.* Article 4(1). In view of the bureaucratic expense involved, the words “periodically review” should be deleted.

Article 4(2)(d). Austria does not maintain any “state” research facilities for OSH; rather private facilities, universities or the social insurance funds carry out such research. As long as there is no requirement that such research be carried out by the federal or provincial governments, there is no objection to this paragraph.

Article 4(3)(b). Since it is not the task of governments to provide OSH training, this paragraph should make it clear that the OSH system should only contain regulations on the nature and scope of OSH training and on which persons need such training.

*Belarus.* FPB: Article 4(3)(e). After “analysis of data on”, insert “cases of deaths of persons at work”.

*Brazil.* Article 4(3)(c). Insert “safety and” before the word “health”.

CGTB: Article 4(1). At the end of the paragraph, add “including from the public sector”.

CGTB: Article 4(2)(b). After “occupational” add “and environmental”.

CGTB: Article 4(2)(c). After “inspection” add “and guarantees of notification of occurrences of occupational safety and health injuries”.

CGTB: Article 4(3)(e). After “diseases” add “as well as one for the qualitative assessment of the collection methods of this data and its compilation”.

CGTB: After Article 4(3)(e), add a new subparagraph: “provisions with a view to including the results of the analysis referred to in the previous subparagraph in the general health indicators”.

CGTB: Article 4(3)(f). After “diseases” add “taking into account, inter alia, the introduction of a methodology using epidemiological criteria in the establishment of the relationship between work and illness, where appropriate”.

*Costa Rica.* Add a new Article 4(3)(h): “the necessary inspection mechanisms to secure the best occupational safety and health conditions at the workplace”.

CCTD-RN: Article 4(3)(g). It is believed that subparagraph (g) is contrary to article 33 of the Constitution, which provides for equality before the law.

*Czech Republic. ČMKOS:* Article 4(3)(f). Add “participation of representatives of insurance remitters and of insured persons in insurance administration” at the end of subparagraph (f). The amendment is proposed because of potential problems in the field of tripartite control over occupational injury insurance administration.

*Germany.* The heading “IV. National system” should be consistent with the definition given in Article 1.

Article 4(3)(c). Remove “occupational health services in accordance with national law and practice” from this paragraph and place it in Article 3(2), since the initial wording “where appropriate” in Article 4(3) conflicts with the wording of Convention No. 161, which obliges ratifying countries to establish occupational health services.

*Hungary.* Article 4(2)(c) and 4(3)(f). The word “and” at the end of these subparagraphs could be replaced by “or any”.

*India.* Article 4(3)(d). Research on OSH should be undertaken with the idea of detecting problems, identifying factors affecting susceptibility and developing modules for prevention of occupational illness and injuries.

*Italy.* Confartigianato: Article 4(3)(g). Add “including specific legal and economic measures” after the words “support mechanisms”.

*Japan.* Article 4(3). The phrase “collective agreement or any other relevant instrument” may be placed in Article 4(3), where appropriate, to provide the same flexibility as in Article 4(2)(a).

*Republic of Korea.* Article 4(1). The words “and periodically review” should be deleted. Making gradual improvements to the system is better than periodically reviewing it as a whole.

Article 4(2)(d). Add “and incentives as far as appropriate” after the word “measures” to promote the cooperation between management and workers. A new subparagraph is proposed after Article 4(2)(d): “(e) determination of the responsibilities of employers and workers concerning their abidance by the rules of occupational safety and health”.

Article 4(3)(a) and (b). These two subparagraphs should be moved to Article 4(2), as two new subparagraphs.

Article 4(3)(e) should be reworded: “a mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account, as far as possible, relevant ILO instruments, since the member State is bound only by instruments that it ratifies”.

*Lebanon.* Article 4(3)(e). It is proposed to redraft this subparagraph as follows: “a mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account, as far as possible, relevant ILO instruments that it ratifies.”

Concerning the other instruments, the State could be guided by its principles according to its circumstances”.

*Malaysia.* MEF: Article 4(2)(c). After “systems of inspection”, add “and audits”.

Article 4(3)(b). After “safety and health training”, add “and education”.

Article 4(3)(g). At the end of Article 4(3)(g), add “including the informal sector in accordance with national law and practice”.

*Papua New Guinea.* The Government supports the Office text, also noting that the provisions of Part IV will, to a large extent, address the deficits in its own national situation.

*Philippines.* Article 4(2)(c). Delete “including systems of inspection”.

Article 4(3) should be reworded as “The national system for occupational safety and health shall include structures which could consolidate:”. A new subparagraph (a) should then read “capacity-building programmes for implementing all aspects of the system”.

Article 4(3)(d), (e) and (g) – move to Article 5 (see “Observations on Article 5”).

*Poland.* Solidarność: In the Convention, there should be a reference to establishing tripartite bodies which would have advisory capacity for competent authorities in the OSH area.

*Switzerland.* UPS: Article 4(1). After the words “periodically review”, add “if necessary”.

*Syrian Arab Republic.* Article 4(3)(e) should be amended as follows: “a mechanism for the registration and notification of occupational accidents, diseases and deaths, and a mechanism for the collection and analysis of data related to them, taking into account relevant ILO instruments”.

Article 4(3)(f). Add “and deaths” at the end of subparagraph (f).

*Ukraine.* Article 4(3)(c). After “occupational”, add “safety and”, since in post-Soviet States, the basic functions in resolving issues of industrial safety are carried out by occupational safety services as well as health services.

### *Office commentary*

The observations reflect broad support for the substantive content of this Article, although individual respondents suggest some specific changes. General support is noted for the Office proposal to introduce a reference to “laws and regulations, or collective agreements, or any other relevant instrument on occupational safety and health” in Article 4(2)(a). Following a careful re-examination of the text, the Office believes, however, that further modification of this text is necessary to reflect that laws and regulations are a required and not an optional element of national systems for OSH but that the inclusion of collective agreements and other instruments may not be required, depending on the national practice in this regard. The proposed text of the Convention has been modified accordingly.

The Office notes a suggestion by the Government of Norway in the context of Article 3 to refer to a national tripartite advisory body or bodies addressing OSH issues. A similar suggestion is also made by Solidarność (Poland). As tripartite collaboration is a crucial part of an effective national system, the Office has introduced this provision in Article 4(3).

The Article, as amended, appears as Article 4 of the proposed Convention.

## V. NATIONAL PROGRAMME

### *Article 5*

1. Each Member shall formulate, implement, monitor and periodically review a national programme on occupational safety and health in consultation with representative organizations of employers and workers.

2. The national programme shall:

- (a) contribute to the protection of workers by minimizing work-related hazards and risks, in accordance with national law and practice, in order to reduce work-related deaths, injuries and diseases;
- (b) be formulated and reviewed on the basis of analysis of the national situation on occupational safety and health, including the national system for occupational safety and health;
- (c) promote the development of a national preventive safety and health culture;
- (d) include targets and indicators of progress; and
- (e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving the objective of a safer and healthier working environment.

3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

### *Observations on Article 5*

*Australia.* Article 5(2)(a) should include the phrase “so far as is reasonably practicable” in the context of minimizing work-related hazards and risks. This phrase is used in Article 4(2) of Convention No. 155 and represents a more realistic approach to policy implementation.

Article 5(2)(d). In spite of having comprehensive and sophisticated national data on occupational fatalities, injuries and diseases, Australia has found it very difficult to establish stable and reliable numerical fatality and disease targets. It is likely that countries with limited OSH resources would find this task very burdensome. Article 5(2)(d) should therefore be modified to read: “The national programme shall ... where practicable, include targets and indicators of progress.”

Article 5(2)(e) is an essential prerequisite for an effective national system. The parties should be encouraged to indicate, where possible, the linkages between complementary programmes, such as labour market, national productivity and poverty reduction programmes. Without these linkages, no OSH programmes will be successful.

ACTU: Article 5(2)(d) should be strengthened to read: “include targets and indicators of progress towards reducing injuries and fatalities”.

*Austria.* Austria most emphatically favours removing the whole of Article 5 from the Convention and placing it in the Recommendation. Any programme should obviously contain objectives, whose implementation would ultimately be reviewed, but the requirement to periodically monitor and review the programme raises questions about the frequency of the monitoring and review and whether the expense is justified. The words “monitor and periodically review” should in any case be deleted from Article 5(1).

Article 5(2)(a). Since a national programme cannot directly minimize work-related hazards and risks, this paragraph should be amended to provide that national programmes should be aimed at reducing risks.

Article 5(3). Given that various authorities or bodies are responsible for OSH in Austria, the question arises as to which is the “highest” national authority. The words “and, to the extent possible, endorsed and launched by the highest national authorities” should be deleted.

*Brazil*. Article 5(1). Insert “and other interested parties” after “workers”.

Article 5(2)(d). Insert “monitoring mechanisms” after the word “targets”.

Article 5(3). Delete “to the extent possible”.

CGTB: Article 5(1). At the end add “and of defence of the environment”.

*Costa Rica*. Article 5(3). Include obligations for governments to publicize the national programme and to report to the public on a quarterly or half-yearly basis on the development of the programme and the results achieved.

*Czech Republic*. ČMKOS: Article 5(2)(a). Add “... and reduce negative impacts of work” at the end of subparagraph (a).

*Denmark*. Article 5(2)(d). The wording “include, where possible, targets and indicators of progress” is preferred.

*El Salvador*. Article 5(2)(d). Propose rewording: “include targets and indicators of progress, as well as a monitoring and evaluation system which provides support for decision-making”.

Article 5(3). Delete “to the extent possible” to give greater emphasis to the responsibility of the highest authorities to endorse and launch the national programme.

*Germany*. The heading “V. National programme” should be consistent with the definition given in Article 1.

*Greece*. Article 5(2)(d). Formulate as follows: “include targets for the improvement of working conditions based on qualitative and perhaps quantitative elements”.

*Italy*. Confartigianato: Article 5(2)(b) should be reworded as follows: “be formulated and reviewed on the basis of analysis of the national situation on occupational safety and health and its trends, including considerations on efficacy and efficiency of the national system of occupational safety and health”.

*Republic of Korea*. Article 5(1). The words “implement, monitor” should be deleted, as it is unnecessary to implement and monitor national programmes in consultation with representative organizations of employers and workers.

Article 5(3). The meaning of “the highest national authorities” should be clarified.

*Lebanon*. Article 5(2)(c). At the end of the subparagraph (c) add: “in particular through:

- raising awareness in the workplace and public awareness on occupational safety and health through national campaigns and linked activities; and
- introducing occupational safety and health concepts in educational and vocational training programmes”.

These two suggestions correspond to Paragraph 3(a) and 3(c) of the Recommendation.

*Malaysia.* Article 5(2)(a). At the end of subparagraph (a), add “and poisoning”.

MEF: Article 5(3) should be reworded as “the national programme will be publicized as far as practicable and, to the extent possible, endorsed and launched by the highest national authorities”.

*Mexico* agrees with the Office text.

CONCAMIN: Article 5 should state that each Member shall, on a gradual basis and in keeping with its capacities and financial situation, endeavour to establish a safer and healthier environment, but not as an obligation.

*New Zealand.* Article 5(2)(d). Replace “targets and indicators” with “targets and/or indicators”.

*Papua New Guinea.* The need for a national programme is fully supported, as is the need for it to be endorsed by the highest authorities and monitored so as to ensure far-reaching implementation.

*Philippines.* Article 5(2)(a). After “protection of workers by”, add “protecting them from” and delete “minimizing”.

Article 5(2)(c). At the end of subparagraph (c), add “and at the same time strengthen the compensation and rehabilitation components of the programme”.

Move Article 4(3)(d), (e) and (g) to new subparagraphs under Article 5(2), as follows:

- “(f) continuing surveillance of work-related injuries and illnesses and adapting an action-based agenda research on occupational safety and health,
- (g) a mechanism for the collection and analysis of data on occupational accidents and diseases; and
- (h) support mechanisms for a progressive improvement of occupational safety and health conditions to protect workers in the informal economy in micro-, small and medium-sized enterprises”.

*Sweden.* Article 5(2)(a). After the words “protection of workers by” add “eliminating or”.

Article 5(2)(d). After “include targets and”, insert “where appropriate”, otherwise new hazards might be excluded from national programmes on the grounds that indicators cannot be established.

*Switzerland.* UPS: Article 5(2)(d). The expression “indicators of progress” must be interpreted in the broad sense in each case and not strictly as a percentage.

*Syrian Arab Republic.* Article 5(2)(d). After “targets and indicators of”, add “evaluation and”.

*Workers’ organizations.* Similar views were shared by LO, FTF (*Denmark*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), Solidarność (*Poland*), CNTS (*Senegal*), CC.OO. (*Spain*), TUC (*United Kingdom*) and AFL-CIO (*United States*), and that Part V should promote the development of prevention measures based on principles of assessment and management of hazards/risks in the workplace.

*Office commentary*

The observations indicate broad support for the substantive content of Article 5. Several workers' organizations propose, however, that the Article should be substantially modified so as also to include provisions to promote the development of prevention measures based on principles of assessment and management of hazards/risks in the workplace. In the light of all the views expressed, the Office considers that the changes proposed by the workers' organizations would not meet with general acceptance and the proposed text has not been modified in this respect.

Some governments propose that Article 5(2)(d) be deleted or modified to be more flexible, arguing that setting targets and indicators to reduce the number of occupational accidents and diseases would be a complex task that would be difficult to implement, particularly for countries where the reporting systems are weak. The Office wishes to draw attention to the fact that such constraints would not necessarily represent an obstacle to implementing this provision as targets and indicators of progress can be varied and should be based on each country's specific needs and conditions. Targets and indicators related to the levels of reported occupational accidents and diseases may, in some countries, be appropriate. In other countries, targets and indicators of progress could, for example, be related to the number of safety and health officers, workers' representatives and other persons with OSH-related functions at the enterprise level, or to legislative developments, including the increased scope of national OSH legislation and the coverage of the national inspection system or the number of enterprises which effectively apply OSH management systems. The process of setting targets to be achieved in a predetermined time frame and of developing country-specific indicators to measure progress is in fact a crucial component of a process for improvement and may be critical for a country to be able to achieve concrete progress in this area. Against this background this provision has been retained.

For the purpose of consistency and clarity, the following modifications have been introduced in the proposed text: Article 5(1): For reasons of consistency with Article 3 of the proposed Convention the words "the most" have been inserted before "representative organizations of employers and workers"; Article 5(2)(a): the words "eliminating or" have been inserted before the words "minimizing work-related hazards and risks" in order to ensure consistency with the principle of prevention as expressed in other relevant Conventions such as Convention No. 155; Article 5(2)(e): for reasons of consistency with Article 2(2) and Article 3(1) in the proposed Convention, the words "a safer and healthier working environment" has been replaced with the words "a safe and healthy working environment".

The Article, as amended, appears as Article 5 of the proposed Convention.

#### **4. Observations on the proposed Recommendation on the promotional framework for occupational safety and health**

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 Ninety-fifth Session on 30 May 2006,

Having decided upon the adoption of certain proposals on occupational safety and health, which is the fourth item of the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Promotional Framework on Occupational Safety and Health Convention, 2006 (hereinafter referred to as “the Convention”);

adopts this day of June of the year two thousand and six the following Recommendation, which may be cited as the Promotional Framework for Occupational Safety and Health Recommendation, 2006.

#### *Observation on the Preamble*

*Lebanon.* It is generally accepted that a Recommendation is considered to be a guideline while a Convention is ratified. So the expression “form of a Recommendation supplementing the Promotional Framework on Occupational Safety and Health Convention, 2006” in the fourth paragraph of the Preamble should not impose an obligation to conform to the provisions of the Recommendation on a State that ratifies the Convention.

#### *Observations on the need for a policy section in the Recommendation*

One member Government and several workers’ organizations, namely CGT RA (*Argentina*), LO, FTF (*Denmark*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), FNV, CNV, MHP (*Netherlands*), Norway, Solidarność (*Poland*), CNTS (*Senegal*), CC.OO. (*Spain*), LO (*Sweden*), TUC (*United Kingdom*) and AFL-CIO (*United States*), said that the Recommendation should include a section on “National policy” corresponding to that included in the Convention, with the aim of encouraging and supporting cooperation between employers and workers and their representatives at the workplace.

#### *Office commentary*

The Office notes the proposal by the Government of Norway and several workers’ organizations to introduce a new section entitled “National policy” into the proposed Recommendation. However, since other respondents are not making similar proposals, the proposed text has not been modified in this respect.

### I. NATIONAL SYSTEM

1. In establishing, maintaining, progressively developing and periodically reviewing the national system for occupational safety and health defined in Article 1(b) of the Convention, Members may extend the consultations provided for in Article 4 of the Convention to other interested parties.

#### *Observations on Paragraph 1*

*Austria.* In accordance with comments on the proposed Convention, the words “periodically reviewing” should be deleted.

*Malaysia.* MEF: At the end of the paragraph, replace “other interested parties” by “other relevant parties”.

*Norway.* The last sentence should read: “Members may seek advice from other interested parties (i.e. other authorities, research institutions, etc.)”

*Uruguay.* To ensure that the objective of the global strategy can be achieved effectively, the requirement to ratify ILO Conventions Nos. 81, 129, 155, 161, 167, 170, 176 and 184 should be included in the Recommendation.

*Workers' organizations.* Similar views were shared by CGT RA (Argentina), LO, FTF (Denmark), SAK, STTK, AKAVA (Finland), CGT-FO (France), ASI (Iceland), CGIL, CISL, UIL (Italy), MHP (Netherlands), LO (Norway), FNV, CNV, Solidarność (Poland), CNTS (Senegal), CC.OO. (Spain), TUC (United Kingdom) and AFL-CIO (United States), that the text after “Members” should be deleted and the following text added:

- “■ consult and promote the active participation of employers, workers and their representatives and relevant governmental institutions, including public health authorities;
- ensure compliance with national laws and regulations, including adequate and appropriate systems of inspection;
- take steps to ratify and effectively implement the Occupational Safety and Health Convention, 1981 (No. 155) and other relevant ILO Conventions listed in annex; and
- periodically review and update on a tripartite basis, national laws and regulations on occupational safety and health, giving priority to emerging hazards such as ergonomic, biological and psycho-social dangers related to work”.

#### *Office commentary*

There are a few modifications proposed by governments, but they do not meet with general support and so they have not been introduced. Similarly, proposals from several workers' organizations to introduce provisions to promote prevention activities at the workplace level in the proposed text of the Recommendation are not supported by the other respondents. The proposed text has therefore not been modified in this respect. However, for reasons of clarity, the reference to “consultation provided for in Article 4 of the Convention” was replaced with the words “consultations provided for in Article 4(1) of the Convention”.

The Paragraph, as amended, appears as Paragraph 1 of the proposed Recommendation.

2. With a view to reducing work-related deaths, injuries and diseases, the national system should provide appropriate measures for the protection of all workers, in particular workers in high-risk sectors and of vulnerable workers, such as those in the informal economy, migrant and young workers.

#### *Observations on Paragraph 2*

*Austria.* Listing individual categories of workers always entails a risk that they will be seen as the only vulnerable groups, or as especially important groups. In this instance the list of examples omits people with disabilities and pregnant and breastfeeding women. Accordingly, in order to include all workers to the same extent, the words “in particular workers in high-risk sectors and of vulnerable workers, such as those in the informal economy, migrant and young workers” should be deleted.

*Brazil.* CGTB: After the expression “young workers”, the following text should be added: “including measures to formalize the link between work and the fight against precarious employment relationships”.

*Switzerland.* UPS: “Young workers” are already covered by the other categories.

*Syrian Arab Republic.* Add the following expression at the end of Paragraph 2 of Part I: “and women, particularly under certain physiological circumstances, such as pregnancy and breastfeeding”.

*Office commentary*

The responses include only a few proposals for substantive changes, which are not generally supported. Only a few editorial changes have been made to the text to clarify that, while the national system should provide appropriate measures for the protection of all workers, particular attention should be given to certain categories of workers specified to include workers in high-risk sectors as well as vulnerable workers – such as workers in the informal economy – and migrant and young workers.

The Paragraph, as amended, appears as Paragraph 2 of the proposed Recommendation.

3. In promoting a national preventive safety and health culture, Members should seek:

- (a) to raise awareness in the workplace and public awareness on occupational safety and health through national campaigns linked, where appropriate, with international initiatives;
- (b) to promote mechanisms for delivery of occupational safety and health education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health;
- (c) to introduce occupational safety and health concepts in educational and vocational training programmes;
- (d) to facilitate the exchange of occupational safety and health statistics and data between relevant authorities, employers, workers and their representatives;
- (e) to provide information and advice to employers and workers and promote or facilitate cooperation between them and their organizations with a view to eliminating or reducing hazards;
- (f) to promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers’ safety representatives, in accordance with national law and practice; and
- (g) to address the constraints of micro-, small and medium-sized enterprises and contractors in the implementation of occupational safety and health policies and regulations, in accordance with national law and practice.

*Observations on Paragraph 3*

*Australia.* Paragraph 3(e). The text uses the term “eliminating or reducing hazards”. It should be amended, in the same sense as Article 5(2)(a) of the proposed Convention, in accordance with Convention No. 155, Article 4(2), which uses the phrase “minimizing, so far as is reasonably practicable”.

*Austria.* Paragraphs 3(a) to 3(e) and 3(g). The Government has no objection.

Paragraph 3(f). Particularly in small and micro-enterprises, there would be little point in requiring the establishment of safety and health policies. The same applies to safety and health committees. The designation of workers’ safety representatives also makes sense only for enterprises above a certain size. “Depending on the size of the enterprise,” should be added at the beginning of the subparagraph.

*Brazil.* CGTB: Paragraph 3(b). Using the principle of precaution, the following text should be added at the end: “the environment and the licensing bodies for the operation and certification of processes”.

CGTB: Paragraph 3(d). In accordance with the principle of transparency, after “representatives”, add “including widely disclosing this information to the public”.

*China.* Paragraph 3(f). After “the establishment of”, add “effective measures such as”.

*Denmark.* LO, FTF: It is suggested that the following sentence be inserted in the Recommendation after “Members should seek”: “to promote the establishment of safety and health politics as well as safety organizations and safety representatives at the working place level”.

*Greece.* Paragraph 3(e). We propose that the word “advice” be deleted.

*Italy.* Government, CGIL, CISL, UIL: Paragraph 3(g). We suggest that the text be amended to insert “and lower their burden” after the word “contractors” in the second line. This would emphasize the need to address the difficulties faced by small and medium-sized enterprises, including through the implementation of measures to simplify their administrative burdens.

*Switzerland.* UPS: Paragraph 3(c). After “to introduce”, add “appropriate”.

*Ukraine.* Paragraph 3(f). After “workers’ safety representatives”, add “and training for those representatives at the employers’ expense”.

*Workers’ organizations.* Similar views were shared by CGT RA (*Argentina*), CLC (*Canada*), LO, FTF (*Denmark*), SAK, STTK, AKAVA (*Finland*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), LO (*Norway*), Solidarność (*Poland*), CNTS (*Senegal*), CC.OO. (*Spain*), LO (*Sweden*), TUC (*United Kingdom*) and AFL-CIO (*United States*), that the following clauses should be added after the words “Members should seek”:

- “■ to promote the establishment of health and safety policies and of joint safety and health committees and workers’ safety representatives at the workplace level;
- to address the constraints of micro-, small and medium-sized enterprises and contractors in the implementation of OSH policies and regulations by establishing a system of regional safety representatives”.

#### *Office commentary*

While the responses include a series of proposed changes from individual respondents, the Office notes that most respondents indicate a broad support for the substantive content of this Paragraph. Having considered these proposals in the overall context of the instruments, the following modifications, mainly intended to render the text more precise, have been introduced: in Paragraph 3 a cross reference to the definition of the term “a national preventive safety and health culture” in Article 1(d) of the proposed Convention has been introduced; in Paragraph 3(a) the words “awareness in the” before the word “workplace” have been removed without any intention to change the substance; Paragraph 3(e) has been slightly reworded in order to clarify that information and advice should be provided to employers and workers and their respective organizations and that cooperation between all these parties should be promoted and facilitated. Furthermore, at the end of the same Paragraph, and for reasons of consistency between the proposed Convention and the proposed Recommendation,

the words “reducing hazards” have been replaced with the words “minimizing work-related hazards and risks”.

The Paragraph, as amended, appears as Paragraph 3 of the proposed Recommendation.

4. Members should promote the management systems approach to occupational safety and health, such as that set out in the *Guidelines on occupational safety and health management systems* (ILO-OSH 2001).

#### *Observations on Paragraph 4*

*Japan.* Paragraph 4 should be amended as follows: “Members should promote the management systems approach to occupational safety and health, taking into consideration national conditions and practice, as prescribed in the *Guidelines on occupational safety and health management systems* (ILO-OSH 2001), which is the only international guidance document with the endorsement of the tripartite representatives.”

*Lebanon.* To facilitate access to the *Guidelines on occupational safety and health management systems* (ILO-OSH 2001), the document should be referred to in the annex to the Recommendation.

*Mexico.* CONCAMIN: The *Guidelines on occupational safety and health management systems* (ILO-OSH 2001) must be applied taking into account the situation and capacities of member States in a position to implement them.

*Switzerland.* UPS: Each country should determine its own approach in this matter.

*Turkey.* TISK: The ILO *Guidelines on occupational safety and health management systems* (ILO-OSH 2001) are not well known, so no reference to them should be made unless the ILO publicizes them more widely.

#### *Office commentary*

The responses include only a few proposals for substantive changes that are not generally supported. Only a few editorial changes have been made to the text.

The Paragraph, as amended, appears as Paragraph 4 of the proposed Recommendation.

## II. NATIONAL PROGRAMME

5. In formulating and reviewing the national programme on occupational safety and health defined in Article 1(c) of the Convention, Members may extend the consultations provided for in Article 5 of the Convention to other interested parties.

#### *Observations on Paragraph 5*

*Malaysia.* MEF: Replace the words “interested parties” with “relevant parties”.

*Philippines.* New Paragraphs should be added after Paragraph 5, as follows:

“6. Delivery mechanisms at national, local and establishment levels should be defined.

7. Capacity-building programmes may include training, communication and advocacy for the programmes on OSH management systems, at all levels. Programmes should address emerging and re-emerging concerns related to chemical, biological and psychosocial issues, among others.”

*Workers' organizations.* Similar views were shared by CGT RA (Argentina), LO, FTF (Denmark), CGT-FO (France), ASI (Iceland), CGIL, CISL, UIL (Italy), FNV, CNV, MHP (Netherlands), LO (Norway), Solidarność (Poland), CC.OO. (Spain), TUC (United Kingdom) and AFL-CIO (United States), that the national programme should promote prevention activities at the workplace level. Such activities might include the matters addressed in Recommendation No. 164, in particular:

- the formulation and review of a preventive policy;
- the definition of the employer's responsibilities and worker's duties and rights;
- the establishment of safety and health committees or safety representatives whose functions include, inter alia, carrying out workplace investigations, keeping records, investigating the causes of illnesses and providing training and information on OSH.

#### *Office commentary*

Several workers' organizations propose introducing provisions to promote prevention activities at the workplace level in the proposed Recommendation, but there is no support among the other respondents for introducing such provisions. The text has therefore not been modified in this respect. However, and in line with the clarification introduced previously in Paragraph 1 of the Recommendation, the reference to "consultations provided for in Article 5 of the Convention" has been replaced with the words "consultations provided for in Article 5(1) of the Convention".

The Paragraph, as amended, appears as Paragraph 5 of the proposed Recommendation.

6. The national programme on occupational safety and health should be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.

#### *Observations on Paragraph 6*

*Brazil.* After "to public health", add "social security, the environment".

*Greece.* Remove the words "such as those relating to public health and economic development". This would give Members the necessary flexibility to include OSH in other national policies, e.g. for education and social security.

*Italy.* Confartigianato: At the end of the Paragraph, add "and integrated into sustainable development policies".

*Lebanon.* Replace "where appropriate" with "as far as possible".

*Mauritius.* After "public health", add "environment".

*Philippines.* Replace "and economic development" with "economic development, agriculture, tourism activities, transportation/communication, science and technology and local government".

#### *Office commentary*

There are a few proposals to add examples of other national programmes to be coordinated with the national programme on OSH. The Office considers that the examples are not exhaustive and that it would be better to limit the examples for more flexibility.

The Paragraph, without amendment, appears as Paragraph 6 of the proposed Recommendation.

7. In formulating and reviewing the national programme on occupational safety and health, and without prejudice to their obligations under Conventions which they have ratified, Members should take into account the international labour Conventions and Recommendations listed in the annex.

#### *Observations on Paragraph 7*

*Brazil.* After Paragraph 7, insert a new Paragraph:

“8. In formulating and reviewing the national programme the information contained in the national profile should be taken into account.”

CGTB: After “in the annex”, add “as well as the WHO ones that apply to the matter”.

*Canada.* After “take into account the”, add “principles in relevant”, to be consistent.

*Cyprus.* At the end of the Paragraph, add “and ratified by them”.

*Lebanon.* At the end of the Paragraph, add “as far as appropriate”.

*Malaysia.* MEF: Delete the whole Paragraph.

*Switzerland.* UPS: Delete the whole Paragraph, as it complicates any pragmatic approach.

#### *Office commentary*

The Office wishes to draw attention to the fact that the notion in the new Paragraph proposed by the Government of Brazil is contained in Paragraph 8. The Office is not in a position to introduce amendments proposed by the Governments of Canada and Lebanon, since these points were discussed at the Conference in 2005 and were not supported. For reasons of consistency, the words “the international labour Conventions and Recommendations listed in the annex” have been replaced with the words “instruments of the International Labour Organization relevant to the promotional framework for occupational safety and health listed in the annex to this Recommendation”.

The Paragraph, as amended, appears as Paragraph 7 of the proposed Recommendation.

### III. NATIONAL PROFILE

8. Members should prepare and regularly update a national profile which summarizes the existing situation on occupational safety and health and the progress that has been made in achieving a safer and healthier working environment. The profile should be used as a basis for formulating and reviewing the national programme.

#### *Observations on Paragraph 8*

*Austria.* The profile should be divided into two parts: a more or less static (qualitative) part describing the OSH system, which would only be updated in the event of substantial changes, and a second part containing parameters describing current developments, such as occupational accidents or current programmes. The latter part should be regularly updated. The first part should contain elements from Paragraph 9(a)

to (g), (i), (j) (k), (o) and (p); the second part elements from Paragraph 9(h), (m), (n), (q), (r) and (s). (See further comments under Observations on Paragraph 9.)

*Mexico.* CONCAMIN: Information on this subject is a useful tool for assessing the results of OSH measures and can be used to confirm or correct the approach being implemented. The national profile could be an additional source of information for action.

*Panama.* It is vital to determine who is meant to prepare the national profile and whether there are sufficient resources to do so.

#### *Office commentary*

While the Office appreciates the logic behind the proposal made by the Government of Austria, it believes that the current wording would not cause an unnecessary burden for the updating of the national profile since the static part could be restated in the updated profile if there are no changes. On the other hand, the static parts of the OSH system could be changed substantially in a limited time in some countries. Therefore, the Office considers the current text more appropriate as a step towards a systematic review of the national OSH system. In order to ensure consistency between Article 2(2) and Article 3(1) of the proposed Convention and this Paragraph of the Recommendation, the words “the progress that has been made in achieving a safer and healthier working environment” have been replaced by “the progress made towards achieving a safe and healthy working environment”.

The Paragraph, as amended, appears as Paragraph 8 of the proposed Recommendation.

9. The national profile on occupational safety and health should include information on the following elements, where appropriate:

- (a) laws, regulations, collective agreements or any other relevant instrument on occupational safety and health;
- (b) authority or body, or authorities or bodies responsible for occupational safety and health, designated in accordance with national law and practice;
- (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;
- (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures;
- (e) information and advisory services on occupational safety and health;
- (f) the provision of occupational safety and health training;
- (g) occupational health services in accordance with national law and practice;
- (h) research on occupational safety and health;
- (i) the mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account relevant ILO instruments;
- (j) provisions for collaboration with relevant insurance schemes covering occupational accidents and diseases;
- (k) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-, small and medium-sized enterprises;
- (l) coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;

- (m) technical standards, codes of practice and guidelines on occupational safety and health;
- (n) educational and awareness-raising structures including promotional initiatives;
- (o) specialized technical, medical and scientific institutions with linkages to various aspects of occupational safety and health, including research institutes and laboratories concerning occupational safety and health;
- (p) persons engaged in the area of occupational safety and health, such as inspectors, officers, occupational physicians and hygienists;
- (q) occupational accident and disease statistics;
- (r) occupational safety and health policies and programmes of organizations of employers and workers;
- (s) regular or ongoing activities related to occupational safety and health, including international collaboration;
- (t) financial and budgetary resources with regard to occupational safety and health; and
- (u) related data addressing, for example, demography, literacy, economy and employment, as available, as well as any other relevant information.

#### *Observations on Paragraph 9*

*Australia.* Paragraph 9(b). Insert the word “the” at the beginning.

Paragraph 9(i), (j), (q) and (u) should be rationalized into a single subparagraph on occupational accidents and diseases.

*Austria.* See comments under Observations on Paragraph 8. Subparagraph (l) is redundant in view of subparagraphs (a), (b) and (d), and should be deleted.

Paragraph 9(p) should only be included as a qualitative element, in the Part generally describing the OSH system.

Paragraph 9(t) should be deleted for lack of budgetary information.

Paragraph 9(u) should be deleted, as this is not relevant to OSH.

*Belarus.* Add a new subparagraph: “(v) the national system for establishing standards of occupational hygiene and regulations on harmful and hazardous factors”.

*Brazil.* Paragraph 9(g). After “occupational”, add “safety and”.

Paragraph 9(p). Delete “such as inspectors, officers, occupational physicians and hygienists”.

Paragraph 9(q). After “statistics”, add “including diseases arising from psychosocial risks”.

CGTB: Paragraph 9(c). At the end, add “of the various spheres of power, in the scope of the respective competencies”.

CGTB: Paragraph 9(j). At the end, add “taking into account, inter alia, the methodology used to determine the relationship between work and injury in the event of illness”.

CGTB: Paragraph 9(l). After “national”, add “regional”. After “review mechanisms”, add “and regional programme review mechanisms, where appropriate”.

CGTB: Paragraph 9(t). Add “mechanisms to evaluate the quality of statistics”.

*Canada.* Paragraph 9(a) to 9(k) is described in Article 4(2)(a) to 4(2)(d) of the Convention. Canada prefers to retain the text adopted at the 93rd Session of the

International Labour Conference in 2005 that refers to Article 4 of the Convention, rather than repeating these provisions.

*Denmark.* The Office text is acceptable.

*Malaysia.* Paragraph 9(a). After “any other relevant”, add “national”.

MEF: Replace “collective agreements” with “code of practice, guidelines”.

Paragraph 9(f). Add “and education”.

Paragraph 9(k). Add “including the informal sector in accordance with national law and practice”.

*Mexico.* The Office text is acceptable.

*Panama.* Paragraph 9(m). Panama has a sector committee for standardization in the field of OSH, which is recognized and promoted by the Ministry of Trade and Industry.

*Portugal.* The elements of the national system should be listed as described in Article 4 of the Convention.

*Senegal.* CNTS: Add the following subparagraphs at the end of Paragraph 9:

- “(v) the occupational safety and health representatives and focal points; and
- (w) the machinery for providing occupational health services and the coverage of the workers by such services”.

*Switzerland* has reservations about the reference to the national profile being used “for formulating and reviewing the national programme”, when the concept of a national profile has no explicit foundation in any of the definitions or duties referred to in the proposed instruments.

UPS: Paragraph 9(i). At the end of the Paragraph, add “ratified by the State concerned”.

UPS: Paragraph 9(m). The reference to “technical standards” is unclear, since in Switzerland it is not customary to define OSH in terms of technical standards.

UPS: Paragraph 9(t). This would depend on national practice.

*Tunisia.* For greater clarity, the elements of the national system should be listed as described in Article 4 of the Convention.

*Ukraine.* The term “national profile” is not entirely clear or appropriate.

Paragraph 9(g). After “occupational” add “safety and”.

*Workers’ organizations.* Similar views were shared by CGT RA (*Argentina*), LO, FTF (*Denmark*), SAK, STTK, AKAVA (*Finland*), CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), JTUC-RENGO (*Japan*), FNV, CNV, MHP (*Netherlands*), Solidarność (*Poland*), CC.OO. (*Spain*), TUC (*United Kingdom*) and AFL-CIO (*United States*), that:

- elements of the national system should be listed in Paragraph 9 as they are described in Article 4 of the Convention,
- in Paragraph 9(p), the words “safety and health representatives and officers” should be added to the list; and

- a new clause should be added in Paragraph 9 as follows: “mechanisms for the provision of occupational health services and the coverage of workers by such services”.

*Office commentary*

The observations on Paragraph 9 reflect broad support for the items on which information should be included in the national profile. While there are a number of proposed changes to this list supported by individual respondents, the Office considers that these points are to be considered at the Conference. Considering the difference in the nature of elements of the national profile, Paragraph 9 has been restructured into two subparagraphs where the first, Paragraph 9(1), includes references to components of the national system as provided in Article 4(2) and 4(3) of the proposed Convention and the second, Paragraph 9(2), includes other items. Furthermore, in order to ensure consistency between the proposed Convention and the proposed Recommendation, the reference to a national tripartite advisory body or bodies addressing occupational safety and health issues in Article 4(3)(a) of the proposed Convention is reflected in a new added Paragraph 9(1)(e). Some further editorial changes have been made in Paragraph 9(2)(c) by replacing the word “structure” with the word “arrangements”, and in Paragraph 9(2)(e) by replacing the word “persons” with the word “personnel” and the word “officers” with the words “safety and health officers”.

The Paragraph, as amended, appears as Paragraph 9 of the proposed Recommendation.

#### IV. INTERNATIONAL EXCHANGE OF INFORMATION

10. The International Labour Organization should:

- (a) facilitate the exchange of information on national policies, systems and programmes on occupational safety and health, including good practices and innovative approaches, and the identification of new and emerging hazards and risks in the workplace; and
- (b) inform on progress made in achieving a safer and healthier working environment.

*Observations on Paragraph 10*

*Office commentary*

No observations have been made on this Paragraph. The following editorial changes have been introduced by the Office: in Paragraph 10(a), a cross reference has been introduced to the definition of “national policy” in the proposed Convention. For reasons of consistency between Article 2 of the proposed Convention and Paragraph 10(b), the words “a safer and healthier working environment” have been replaced with the words “a safe and healthy working environment”.

The Paragraph, as amended, appears as Paragraph 10 of the proposed Recommendation.

*Observation on a proposed new Paragraph 11*

*Spain.* CC.OO: After Paragraph 10 and before the current title “V. Updating of the annex”, add the following new text: “V. Promotion of occupational safety and health at the international level”, and a new Paragraph 11: “The ILO and its constituents shall

make all necessary efforts to ensure that the right to life and to occupational safety at work as promoted by the ILO Conventions is included among the fundamental rights.”

*Office commentary*

As regards the proposed new Paragraph 11, in the light of the lack of support for a similar proposal during the first discussion of this instrument in 2005, the Office is not in a position to introduce it.

V. UPDATING OF THE ANNEX

11. The list annexed to this Recommendation should be reviewed and updated by the Governing Body of the International Labour Office. Any new list so established shall be adopted by the Governing Body and shall replace the preceding list after having been communicated to the Members of the International Labour Organization.

*Observations on Paragraph 11*

*Office commentary*

No amendments were proposed to this Paragraph and it appears as Paragraph 11 of the proposed Recommendation.

ANNEX

List of ILO instruments relevant to the promotional framework for occupational safety and health

*I. Conventions*

- Labour Inspection Convention, 1947 (No. 81)
- Radiation Protection Convention, 1960 (No. 115)
- Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- Employment Injury Benefits Convention, 1964 (No. 121)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Occupational Cancer Convention, 1974 (No. 139)
- Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
- Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention, 1985 (No. 161)
- Asbestos Convention, 1986 (No. 162)
- Safety and Health in Construction Convention, 1988 (No. 167)
- Chemicals Convention, 1990 (No. 170)
- Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
- Safety and Health in Mines Convention, 1995 (No. 176)
- Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)
- Safety and Health in Agriculture Convention, 2001 (No. 184)

Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

## *II. Recommendations*

Labour Inspection Recommendation, 1947 (No. 81)  
 Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)  
 Protection of Workers' Health Recommendation, 1953 (No. 97)  
 Welfare Facilities Recommendation, 1956 (No. 102)  
 Radiation Protection Recommendation, 1960 (No. 114)  
 Workers' Housing Recommendation, 1961 (No. 115)  
 Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)  
 Employment Injury Benefits Recommendation, 1964 (No. 121)  
 Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)  
 Occupational Cancer Recommendation, 1974 (No. 147)  
 Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)  
 Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)  
 Occupational Safety and Health Recommendation, 1981 (No. 164)  
 Occupational Health Services Recommendation, 1985 (No. 171)  
 Asbestos Recommendation, 1986 (No. 172)  
 Safety and Health in Construction Recommendation, 1988 (No. 175)  
 Chemicals Recommendation, 1990 (No. 177)  
 Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)  
 Safety and Health in Mines Recommendation, 1995 (No. 183)  
 Safety and Health in Agriculture Recommendation, 2001 (No. 192)  
 List of Occupational Diseases Recommendation, 2002 (No. 194)

### *Observations on the annex*

#### OBSERVATIONS ON THE INCLUSION OF CONVENTION NO. 121 AND RECOMMENDATION NO. 121

In Report IV(1), the Office remarked that Convention No. 121 and Recommendation No. 121 had been listed in the annex, since they were relevant instruments.

The following governments and organizations agreed that these two instruments should be so listed: *Denmark*, CGT-FO (*France*), ASI (*Iceland*), CGIL, CISL, UIL (*Italy*), JTUC-RENGO (*Japan*), FNV, CNV, MHP (*Netherlands*), Solidarność (*Poland*), *Portugal*, CC.OO. (*Spain*), *Tunisia* and TUC (*United Kingdom*).

The following organization did not consider that these instruments should be listed in the annex: CEC (*Canada*).

*Other observations on the annex*

*Malaysia.* MEF: The list should be deleted.

*Syrian Arab Republic.* Add the following ILO Conventions and Recommendations to the annex:

- Maternity Protection Convention, 2000 (No. 183)
- Night Work Convention, 1990 (No. 171)
- Benzene Convention, 1971 (No. 136)
- Guarding of Machinery Convention, 1963 (No. 119)
- Night Work (Women) Convention (Revised), 1948 (No. 89)

*Tunisia.* The title of the list is also agreed, given that the Office is following the guidance provided in the *Manual for drafting ILO instruments*.

*Office commentary*

The responses reflect clear support for the title proposed for the annex. It has therefore been maintained with slight editorial modifications including omitting the word “list” and spelling out the word “ILO”, to make it clear that reference is made to the International Labour Organization and not the Office.

As regards the instruments included in the annex, the proposed addition of the Employment Injury Benefits Convention, 1964 (No. 121), and the Employment Injury Benefits Recommendation, 1964 (No. 121), is supported by the majority of the respondents and is thus maintained.

The Office notes that, while there is limited support for including references to additional instruments in the annex, it wishes to draw attention to the fact that the Labour Statistics Convention, 1985 (No. 160), and the Labour Statistics Recommendation, 1985 (No. 170), include provisions on statistics on occupational accidents and diseases which would seem relevant in the context of the proposed instruments, in particular in the light of the provision in Article 4(3)(f) of the proposed Convention and Paragraph 9(2)(f) of the proposed Recommendation.

The annex, as amended, appears as the annex to the proposed Recommendation.