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# HOURS OF WORK

## From fixed to flexible?

International Labour Conference

93rd Session 2005

## Report III (Part 1B)

General Survey of the reports concerning the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

Third item on the agenda:  
Information and reports on the application  
of Conventions and Recommendations

Report of the Committee of Experts  
on the Application of Conventions and Recommendations  
(articles 19, 22 and 35 of the Constitution)

International Labour Office Geneva

# **HOURS OF WORK**

From fixed to flexible?

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# Introduction

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## I. Background of the General Survey

1. Hours of work have always been a prime focus and a topic of vital importance for standard setting in the International Labour Organization (ILO). This is reflected by the fact that it is the subject of first Convention of the ILO and has subsequently been the topic of a number of Conventions, General Surveys and discussions over the years, as detailed in paragraphs 2 to 19 hereafter.

2. More recently, a Working Party on Policy Regarding the Revision of Standards was set up by the Governing Body in March 1995 and concluded its work in March 2002. It conducted a case-by-case examination of the need for revision of all ILO Conventions and Recommendations adopted before 1985, with the exception of fundamental and priority Conventions. In November 1996, the Office prepared a paper for the third meeting of the Working Party reviewing 28 Conventions, including the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).<sup>1</sup> The Office suggested that the question of working-time arrangements could be included on the agenda for a forthcoming session of the Conference, with a view to general discussion, as well as to clarifying the possible need to revise Conventions Nos. 1 and 30 and, where necessary, other instruments concerned with hours of work (or other appropriate solutions for the same purpose).<sup>2</sup> After an exchange of views, the Working Party proposed that the Governing Body invite member States to submit reports under article 19 of the Constitution in respect of Conventions Nos. 1 and 30 and request the Committee of Experts then to carry out a General Survey of the matter.<sup>3</sup> This proposal was approved by consensus by the Committee on Legal Issues and International Labour Standards of the Governing Body.<sup>4</sup> The Governing Body of the ILO decided, at its 282nd Session (November 2001), in accordance with article 19, paragraph 5(e), of the Constitution of the ILO, to invite governments which have not ratified the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), to submit a report under article 19 of the Constitution.<sup>5</sup> Reports from 84 countries have been received.<sup>6</sup> On the basis of the reports supplied in accordance with this decision and those submitted under articles 22 and 35 of the Constitution of the ILO by the governments of those States which have ratified one or other of the Conventions, the Committee of Experts on the

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<sup>1</sup> GB.267/LILS/WP/PRS/2.

<sup>2</sup> *ibid.*, p. 17.

<sup>3</sup> GB.267/LILS/4/2(Rev.), para. 32.

<sup>4</sup> GB.267/9/2, para. 14.

<sup>5</sup> See GB. 282/205, para. 44.

<sup>6</sup> See Appendix VII.

Application of Conventions and Recommendations has carried out the present General Survey on the effect given in law and practice to Conventions Nos. 1 and 30. The Committee has also taken into account the observations received from employers' and workers' organizations.<sup>7</sup>

## II. Historical background

### Convention No. 1

3. The reduction of hours of work and in particular the eight-hour day had been since the middle of the nineteenth century one of the most constant demands of the labour movement. In the early days of industrialization it was not uncommon that working hours amounted to 14 to 16 per day, but they were progressively reduced to 12, 11 then 10 per day and the latter figure was of fairly general application in Europe at the beginning of the First World War. During and at the end of the war, the pressure brought by organizations of workers accelerated the progress towards the eight-hour day.<sup>8</sup> As a result, the limitation of working hours by law to eight a day or 48 a week was already the practice, in some occupations or branches of industry, of most States.<sup>9</sup>

4. The elaboration and adoption of international standards governing hours of work has been given high priority by the International Labour Organization since its creation in 1919. The Preamble to Part XIII "Labour" of the Versailles system of peace treaties, under which the ILO was established, specifically included "the regulation of the hours of work, including the establishment of a maximum working day and week" among the measures urgently required to improve conditions of labour.<sup>10</sup> Similarly, the adoption of an eight-hour day or a 48-hour week as the standard to be aimed at, where it had not already been attained, was included among the methods and principles of special and urgent importance which all industrial communities should endeavour to apply so far as their special circumstances would permit.<sup>11</sup> The inclusion of the adoption as an international standard of the eight-hour working day among the ILO's priorities reflected one of the principal demands of workers' organizations before the First World War.<sup>12</sup>

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<sup>7</sup> *Denmark*: National Association of Local Authorities in Denmark (KL). *Fiji*: Fiji Trades Union Congress (FTUC). *Finland*: Central Organization of Finnish Trade Unions (SAK); Confederation of Finnish Industry and Employers (TT); Employers' Confederation of Service Industries in Finland; Federation of Finnish Enterprises. *Hungary*: National Association of Employers and Industrialists (MGYOSZ); Trade Union Confederation of Workers of the Chemical Industry, Energy Industry and Related Trades. *India*: Centre of Indian Trade Unions (CITU). *Japan*: Japanese Trade Union Confederation (JTUG-RENGO). *Mauritius*: Mauritius Employers' Federation (MEF). *Mexico*: Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN). *Republic of Moldova*: Confederation of Trade Unions of the Republic of Moldova (CSRM). *Portugal*: Confederation of Portuguese Industry (CIP); Confederation of Trade and Services of Portugal (CCSP); General Confederation of Portuguese Workers (CGTP); Portuguese Confederation of Tourism (CTP). *Turkey*: Confederation of Turkish Trade Unions (TÜRK-İS); Turkish Confederation of Employer' Associations (TİSK). *United States*: American Federation of Labour-Congress of Industrial Organizations (AFL-CIO).

<sup>8</sup> N. Valticos and G. von Potobsky, *International labour law* (2nd edition), 1995, p. 159.

<sup>9</sup> *League of Nations: Report on the eight-hours day or forty-eight hours week*. Report I, p. 5 (London, Harrison & Sons, 1919).

<sup>10</sup> The Treaty of Peace between the Allied and Associated Powers and Germany, and other Treaty Engagements, signed at Versailles, 28 June 1919 (London, HMSO, 1920), p. 185.

<sup>11</sup> *idem*, p. 197.

<sup>12</sup> See, e.g., *The International Labour Organisation: The first decade* (London, 1931), p. 105; N. Valticos and G. von Potobsky, *International labour law*, p. 159.

5. Two alternative proposals of the Treaty of Versailles – an eight-hour working day or a 48-hour working week – had been presented for the consideration at the First Session of the International Labour Conference, held in Washington, DC, in October 1919.<sup>13</sup> These proposals differed in some important respects. The principle of the eight-hour day would result in a week of 56 hours if work were carried out for seven days a week, which was common in certain industries, processes or occupations that required to be carried on continuously.<sup>14</sup> On the other hand, if combined with a half-day off and a weekly rest day, it might reduce the number of working hours to fewer than 48. The 48-hour week ensured that *on average* hours of work would not exceed eight hours a day for six days, but allowed somewhat longer hours to be worked on some days if compensated for by shorter hours (e.g., a half-day off) on other days.<sup>15</sup> The draft submitted by the Organizing Committee as a basis for discussion at the Conference embodied the principle of the 48-hour week,<sup>16</sup> but it was left to the Conference to determine which of the two principles it would adopt.<sup>17</sup>

6. The instrument that was adopted, the Hours of Work (Industry) Convention, 1919 (No. 1), embodied the *combination* of the two principles referred to in the Treaty of Versailles with respect to all industrial workers.<sup>18</sup> Convention No. 1 applies to persons employed in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed.<sup>19</sup> The Convention limits hours of work to eight a day and 48 a week in industrial undertakings in general,<sup>20</sup> and to 56 hours in cases of processes which are required by reason of their nature to be carried on continuously by a succession of shifts.<sup>21</sup> It also provides for the possibility of averaging hours of work over a period of time,<sup>22</sup> as well as for permanent and temporary exceptions to the general standard.<sup>23</sup> The Convention calls for regulations to be made after consultation with the organizations of employers and workers concerned to fix the maximum of additional hours in each instance, and specifies that the rate of pay for overtime shall not be less than one and one-quarter times the regular

<sup>13</sup> *League of Nations: Report on the eight-hours day or forty-eight hours week*, Report I (London, Harrison & Sons, 1919), p. 3.

<sup>14</sup> *idem*, p. 3.

<sup>15</sup> *idem*.

<sup>16</sup> The Organizing Committee proposed the adoption of this principle rather than that of the eight-hour day for two reasons. First, in the Committee's view, it allowed more elasticity in the arrangement of hours of work and facilitated the adoption of a half-day off, or even a whole day off, on Saturday or some other day of the week if more than eight hours were worked on other days. Secondly, it helped to secure the weekly rest day, whereas the principle of an eight-hour day in itself did not; *idem*, p. 136.

<sup>17</sup> *idem*.

<sup>18</sup> "[T]he principle on which the draft Convention depends is as follows: the 8-hour day *and* 48-hour week, i.e. the normal working day is 8 hours and the normal working week 48 hours". See *Report on a draft Convention relating to the eight-hours day and the forty-eight hours week*, in *League of Nations: International Labour Conference. First annual meeting* (29 October 1919-29 November 1919) (Washington, Government Printing Office, 1920), p. 233.

<sup>19</sup> Article 2 of Convention No. 1. The term "industrial undertaking" itself is defined in Article 1, paragraph 1, of the Convention.

<sup>20</sup> Article 2 of Convention No. 1.

<sup>21</sup> Article 4 of Convention No. 1.

<sup>22</sup> Article 2, paragraph (c), of Convention No. 1.

<sup>23</sup> Article 6, paragraph 1, of Convention No. 1.

rate.<sup>24</sup> Thus, from the conceptual point of view, Convention No. 1 prescribes a general rule (an eight-hour working day and 48-hour working week) and authorizes a limited number of specific exceptions.

7. The fundamental idea behind Convention No. 1 is that the combination of standards of the eight-hour day or 48-hour week contemplated by the Treaty of Versailles is to be embodied in national legislation in the form of a legal limitation of hours of work, which would be laid down by the legislature and enforced by the executive departments of the Government.

8. It was not intended to be merely a “standard” or “basic” week upon which normal hours would be calculated and which would determine the point at which overtime pay at increased rates was to begin. Such a standard would have left the number of hours of work unlimited, except in so far as agreed upon between the employers and workers. It would therefore have failed to provide protection against undue fatigue, or ensure reasonable leisure and opportunities for recreation and social life, which were the objective of the relevant provisions of the Treaty of Versailles.<sup>25</sup>

### Convention No. 30

9. While Convention No. 1 only covers *industrial* workers, the Hours of Work (Commerce and Offices) Convention (No. 30), adopted at the 14th Session of the International Labour Conference in 1930, applies the same principles of the 48-hour working week and the eight-hour working day to persons employed in the commerce and offices sectors.<sup>26</sup> Convention No. 30 applies to persons employed in commercial or trading establishments, including postal, telegraph and telephone services, in the establishments and administrative services in which the persons employed are mainly engaged in office work, and in mixed commercial and industrial establishments, unless they are deemed to be industrial establishments.<sup>27</sup> The Convention limits the hours of work of the persons to whom it applies to 48 hours a week and eight hours a day. It allows a certain flexibility in the arrangement of weekly hours of work, provided that the hours worked in a day do not exceed ten hours.<sup>28</sup> It authorizes, under certain conditions, an increase in the hours worked in the day for the purpose of making up hours of work which have been lost in case of a general interruption of work due to local holidays, or accidents, or *force majeure*,<sup>29</sup> a matter which is not dealt with in Convention No. 1. Under Convention No. 30, in exceptional cases, regulations made by public authority may permit hours of work to be distributed over a period longer than the week, provided that the average hours of work a week over the number of weeks in the period do not exceed 48 and that hours of work in any day do not exceed ten hours.<sup>30</sup> The Convention also provides for the possibility of making permanent and temporary exceptions to the general standard.<sup>31</sup>

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<sup>24</sup> Article 6, paragraph 2, of Convention No. 1.

<sup>25</sup> *Report on a draft Convention relating to the eight-hours day and the forty-eight hours week*, op. cit., pp. 2 and 3.

<sup>26</sup> Article 3 of Convention No. 30.

<sup>27</sup> Article 1, paragraph 1, of Convention No. 30.

<sup>28</sup> Article 4 of Convention No. 30.

<sup>29</sup> Article 5, paragraph 1, of Convention No. 30.

<sup>30</sup> Article 6 of Convention No. 30.

<sup>31</sup> Article 7 of Convention No. 30.

10. The objective of Convention No. 30 is to extend the hours of work standards prescribed by Convention No. 1 to all those persons not covered by Convention No. 1, with the exception of those employed in agriculture, maritime or inland navigation, fisheries and domestic service.<sup>32</sup> It was felt that the decisions taken at Washington for the benefit of industrial workers should be followed up and completed by decisions in the same form for the benefit of salaried employees, so that they also benefited from international guarantees for their protection which would have placed them on a footing of equality with their co-workers in industry.<sup>33</sup>

## Other Conventions

11. The standard-setting activities of the ILO in the area of hours of work did not come to an end with the adoption of Convention No. 30. In total, between 1919 and 2004, 16 Conventions<sup>34</sup> and 11 Recommendations<sup>35</sup> have been adopted dealing with the hours of work issues, in addition to those Conventions and Recommendations dealing with related matters, such as weekly rest,<sup>36</sup> holidays with pay,<sup>37</sup> the organization of working time<sup>38</sup> and night work,<sup>39</sup> notably the Weekly Rest (Industry) Convention, 1921 (No. 14), the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), and the Holidays with Pay Convention (Revised), 1970 (No. 132).

<sup>32</sup> *League of Nations: International Labour Conference, Fourteenth Session*, Vol. 1 (Geneva, ILO, 1930), p. 406.

<sup>33</sup> *League of Nations: International Labour Conference: Hours of Work of Salaried Employees*, Report II (Geneva, ILO, 1930), pp. 237-238.

<sup>34</sup> The Hours of Work (Industry) Convention, 1919 (No. 1); the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); the Hours of Work (Coal Mines) Convention, 1931 (No. 31); the Sheet-Glass Works Convention, 1934 (No. 43); the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46); the Forty-Hour Week Convention, 1935 (No. 47); the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49); the Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51); the Hours of Work and Manning (Sea) Convention, 1936 (No. 57); the Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61); the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67); the Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76); the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93); the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109); the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153); and the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

<sup>35</sup> The Hours of Work (Fishing) Recommendation, 1920 (No. 7); the Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8); the Hours of Work (Hotels, etc.) Recommendation, 1930 (No. 37); the Hours of Work (Theatres, etc.) Recommendation, 1930 (No. 38); the Hours of Work (Hospitals, etc.) Recommendation, 1930 (No. 39); the Hours of Work and Manning (Sea) Recommendation, 1936 (No. 49); the Methods of Regulating Hours (Road Transport) Recommendation, 1939 (No. 65); the Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109); the Reduction of Hours of Work Recommendation, 1962 (No. 116); the Hours of Work and Rest Periods (Road Transport) Recommendation, 1979 (No. 161); and the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187).

<sup>36</sup> See, e.g., the Weekly Rest (Industry) Convention, 1921 (No. 14); and the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

<sup>37</sup> See, e.g., the Holidays with Pay Convention, 1936 (No. 52); the Holidays with Pay (Sea) Convention, 1936 (No. 54); the Paid Vacations (Seafarers) Convention, 1946 (No. 72); the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91); the Holidays with Pay (Agriculture) Convention, 1952 (No. 101); the Holidays with Pay Convention (Revised), 1970 (No. 132); and the Seafarers' Annual Leave with Pay Convention, 1976 (No. 146).

<sup>38</sup> The Part-Time Work Convention, 1994 (No. 175).

<sup>39</sup> See, e.g., the Night Work (Women) Convention, 1919 (No. 4); the Night Work of Young Persons (Industry) Convention, 1919 (No. 6); the Night Work (Bakeries) Convention, 1925 (No. 20); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79); the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948; the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90); and the Night Work Convention, 1990 (No. 171).

12. The Forty-Hour Week Convention, 1935 (No. 47) provides that each Member of the ILO which ratifies it, declares its approval of the principle of a 40-hour week applied in such a manner that the standard of living is not reduced in consequence; and the taking or facilitating of such measures as may be judged appropriate to secure this end; and undertakes to apply this principle to classes of employment in accordance with the detailed provision to be prescribed by such separate Conventions as are ratified by that Member.<sup>40</sup>

13. Convention No. 14 provides that the whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof shall, in principle, enjoy in every period of seven days a period of rest comprising at least 24 consecutive hours.<sup>41</sup> Similarly, under Convention No. 106, all persons to whom it applies shall, in principle, be entitled to an uninterrupted weekly rest period comprising not less than 24 hours in the course of each period of seven days.<sup>42</sup> Finally, under Convention No. 132, every person to whom this Convention applies shall be entitled to an annual paid holiday of a specified minimum length.<sup>43</sup> Each Member which ratifies this Convention shall specify the length of the holiday in a declaration appended to its ratification,<sup>44</sup> but this holiday shall in no case be less than three working weeks for one year of service.<sup>45</sup>

14. The Governing Body has invited member States to consider ratifying Conventions Nos. 14 and 106.<sup>46</sup> With regard to the Holidays with Pay Convention (Revised), 1970 (No. 132), it has decided on the maintenance of the status quo, it being understood that any subsequent development will be taken into account in due time.<sup>47</sup>

## Ratification rates and early concerns

15. In spite of the importance of working hours, Convention No. 1 and Convention No. 30 have only achieved a modest ratification rate. As of 1 September 2004, Convention No. 1 had been ratified by 52 member States with the most recent ratification being on 14 June 1988;<sup>48</sup> and Convention No. 30 has been ratified by 30 member States, the most recent being on 12 June 1985.<sup>49</sup> Notably, none of the ten ILO Members of chief industrial importance<sup>50</sup> have ratified Convention No. 30, and just

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<sup>40</sup> Article 1 of Convention No. 47.

<sup>41</sup> Article 2, paragraph 1, of Convention No. 14.

<sup>42</sup> Article 6, paragraph 1, of Convention No. 106.

<sup>43</sup> Article 3, paragraph 1, of Convention No. 132.

<sup>44</sup> Article 3, paragraph 2, of Convention No. 132.

<sup>45</sup> Article 3, paragraph 3, of Convention No. 132.

<sup>46</sup> See GB.268/LILS/5(Rev.1), paras. 71 and 72; GB.268/8/2, para. 17.

<sup>47</sup> See GB.279/LILS/3(Rev.1), para. 50; GB.279/11/2, para. 13.

<sup>48</sup> The Czech Republic and Slovakia have confirmed that they continue to be bound as of 1 January 1993 by Convention No. 1 which had been in force in their territories prior to independence.

<sup>49</sup> As of 1 September 2004, there were 177 member States of the ILO. This means that Convention No. 1 had been ratified by less than one-third of ILO member States, and Convention No. 30 by less than one-fifth. (In comparison, the Worst Forms of Child Labour Convention, 1999 (No. 182), adopted quite recently, has already been ratified by 150 member States.)

<sup>50</sup> In 2004, the ten ILO Members of chief industrial importance were (in alphabetical order): Brazil, China, France, Germany, India, Italy, Japan, Russian Federation, United Kingdom and United States.

three of them have ratified Convention No. 1,<sup>51</sup> and two countries have in more recent years denounced the Conventions.<sup>52</sup>

16. The first obstacles to the ratification of Convention No. 1 became apparent shortly after its adoption. Even though it had been adopted at the Conference by an almost unanimous vote,<sup>53</sup> fears of international competition, widespread concerns that the introduction of the eight-hour working day might hinder the intensive production required to reconstitute the assets destroyed by war, and the economic problems of the post-war period in general prevented many countries from ratifying the Convention.<sup>54</sup>

17. With regard to the ratification of Convention No. 30, serious reservations as to the feasibility of a single international instrument covering the huge section of the population referred to as “salaried employees” were expressed even before its adoption, in view of the very wide scope and complexity of the issue, as well as of the far-reaching divergences and great variety of approaches adopted by various countries to deal with it.<sup>55</sup> The ratification of Convention No. 30 may have been hindered by the fact that, by the time of its entry into force,<sup>56</sup> the reduction of the working week to 40 hours had already become a new objective for international labour standards in the area of hours of work.<sup>57</sup> This may have given the impression to the governments that the issue of the eight-hour day and the 48-hour week had given way to the 40-hour week and, consequently, was no longer at the top of the ILO’s agenda.

18. The obstacles to the ratification of Conventions Nos. 1 and 30 were analysed by the Committee of Experts in its 1967 General Survey on hours of work.<sup>58</sup> The Committee noted that the greatest number of difficulties arose in the matter of exceptions.<sup>59</sup> Certain exceptions for which provision was made in domestic legislation were not provided for in these Conventions and, in general, the exceptions for which provision was made in the Conventions were more limited than those in national legislation and practice; the lapses of time for and the limits on making up hours of work which have been lost, as provided

<sup>51</sup> India – unconditionally; France and Italy – conditionally. Conditional ratification means that the entry into force of the Convention for the country concerned is subject to its ratification by certain other member States. See N. Valticos and G. von Potobsky, *International labour law* (2nd edition) 1995, p. 272.

<sup>52</sup> New Zealand denounced Conventions Nos. 1 and 30 on 9 June 1989; Finland never ratified Convention No. 1 and denounced Convention No. 30 on 23 June 1999.

<sup>53</sup> The final vote was 82 for, 2 against and 1 abstention. See *League of Nations: International Labour Conference. First annual meeting*, op. cit., p. 186.

<sup>54</sup> See, e.g., G. Scelle, *L’Organisation internationale du travail et le BIT* (Paris, 1930), pp. 258-259; N. Valticos and G. von Potobsky, *International labour law* (2nd edition), 1995, p. 159.

<sup>55</sup> See *League of Nations: International Labour Conference, Fourteenth Session: Hours of Work of Salaried Employees, Questionnaire II* (Geneva, ILO, 1930), p. 4; *League of Nations: International Labour Conference, Fourteenth Session. Record of Proceedings* (ILO, Geneva, 1930), p. 408 (statement of Mr. Oesterberg, Employers’ adviser, Denmark). The lack of unanimity among the delegates had been reflected in the results of the final vote on the draft Convention: 78 votes for to 31 votes against; idem, p. 463.

<sup>56</sup> Convention No. 30 entered into force on 29 August 1933.

<sup>57</sup> The Conference invited the Governing Body of the International Labour Office to investigate the question of the legal institution of the 40-hour week in all industrial countries, with a view to the early adoption of international regulations on the subject. See resolution concerning the 40-hour week, submitted by Mr. Jouhaux, French Workers’ delegate. *League of Nations: International Labour Conference, 16th Session, Record of Proceedings* (Geneva, ILO, 1932), pp. 838-839.

<sup>58</sup> ILO: “Hours of work”. Extract from the Report of the 37th (1967) Session of the Committee of Experts on the Application of Conventions and Recommendations, Geneva, 1967 (hereinafter the “1967 General Survey”).

<sup>59</sup> 1967 General Survey, para. 300.

for in Convention No. 30, were too restrictive in scope.<sup>60</sup> Nevertheless, despite the difficulties concerning the ratification and implementation of Conventions Nos. 1 and 30, the Committee came to conclusion in its 1967 General Survey that, as compared with the general situation at the time of the adoption of Convention No. 1, considerable progress had been achieved in both as regards national and international standards, and as regards the actual practices. A review of the level of hours of work in the various countries revealed a steady trend for their reduction, which had become even more marked in the years preceding the survey.<sup>61</sup> Furthermore, as far as the reduction of working hours was concerned, the general situation and developments were encouraging, and further progress was expected.<sup>62</sup>

19. The Committee also noted that this gradual evolution was coupled with a certain trend towards flexibility in methods of regulation and limits, as could be observed in various countries, with regard to both normal hours and exceptions. Several countries seemed to prefer the gradual adjustment of normal hours of work in accordance with socio-economic conditions and by allowing collective bargaining to operate freely. In certain countries, particularly industrially developed countries, a greater or lesser degree of latitude was allowed with regard to the possibilities for temporary variations in hours of work, with such variations sometimes being restrained by the application of a progressive rate of overtime pay.<sup>63</sup>

20. The issue of hours of work was revisited by the Committee of Experts in its 1984 General Survey on working time, the reduction of hours of work, weekly rest and holidays with pay.<sup>64</sup> Referring to the findings of the 1967 General Survey, the Committee came to the conclusion that the trends as regards working hours and the approaches to their reduction described in that survey had by and large continued over the past 17 years.<sup>65</sup>

## Major developments since 1984 to date

21. Since the 1984 General Survey, there have been a number of major developments in the area of hours of work and the organization of working time throughout the world. New forms of employment, such as part-time working, have gained ground; in some countries, working time has been reduced in order to create jobs, while in others it has been extended; and working time is no longer automatically organized on a weekly or annual basis, with a more flexible approach being adopted.<sup>66</sup> For an increasing number of employees, the length of the working day and week is becoming a variable or flexible

<sup>60</sup> *idem.*

<sup>61</sup> *idem*, para. 308.

<sup>62</sup> 1967 General Survey, para. 306.

<sup>63</sup> 1967 General Survey, para. 309.

<sup>64</sup> See International Labour Conference, 70th Session, *General Survey of the Reports relating to the Reduction of Hours of Work Recommendation (No. 116), the Weekly Rest (Industry) Convention (No. 14), the Weekly Rest (Commerce and Offices) Convention (No. 106) and Recommendation (No. 103), and the Holidays with Pay Convention (Revised) (No. 132)*, Report III (Part 4B), ILO, Geneva, 1984 (hereinafter the “1984 General Survey”).

<sup>65</sup> 1984 General Survey, para. 105.

<sup>66</sup> See, e.g., Gerhard Bosch, “Working time: Tendencies and emerging issues”, in *International Labour Review*, 1999, Vol. 138, No. 2, p. 131; Colette Fagan and Michel Lallement, “Working time, social integration and transitional labour markets”, in Jacqueline O’Reilly, Inmaculada Cebrián and Michel Lallement (eds.): *Working-time changes: Social integration through transitional labour markets* (Edwar Elgar, 2000), p. 28.



feature of employment, influenced primarily by the pattern of demand confronting the firms in which they work. Working time is becoming standardized in terms of what are sometimes known as “balancing periods”, over which average working hours at basic rates of pay must conform to an agreed level. Such standards represent a departure from established patterns in many countries by establishing flexible rather than fixed levels of normal working time over periods such as a day, week or year.<sup>67</sup> Further, working time is becoming more differentiated and variable, triggered by a combination of economic, technological and cultural influences. The “standard” working week is giving way to schemes of hours averaged over longer intervals of time.<sup>68</sup> Some authors raise questions concerning the extent to which the length of working time, as expressed in absolute terms, is still appropriate and whether the secular trend towards shorter hours is still relevant.<sup>69</sup>

22. Furthermore, the process of globalization and the resulting intensification of competition, the associated development in information and communications technologies, and new patterns of consumer demand for goods and services in the “24-hour economy” have had a large impact on production methods and work organization. From the perspective of the enterprise, the drive to enhance the utilization of capital, reduce labour costs, manage human resources in innovative ways, and respond to diversifying customer demands have birthed enterprise strategies such as new methods of flexible production (just-in-time, lean production, etc.) and a much more flexible organization of work, including working time.

23. From the perspective of workers, there have been profound demographic changes, particularly the increasing entry of women into the paid labour market and the resulting increased feminization of the labour force; the related shift from the single “male breadwinner” household to dual-earner households; and a growing concern over the quality of working life, particularly in the industrialized world. These various developments have shaped workers’ needs and preferences in relation to working life, including in respect to the duration and timing of work, which vary according to worker characteristics – perhaps most significantly by gender – as well as over the life cycle of individual workers. All of these changes are reflected in a variety of working time arrangements which vary from conventional full-time, permanent, weekday work in terms of either their duration and/or timing: part-time work, flexitime and “time banking” accounts in which workers can credit or debit their hours just like money in a bank, working “on call” (as and when needed), and the averaging of working time over periods of up to a year.

24. The end result of these developments is a growing diversification, decentralization and individualization of the hours that people work, as well as an often increasing tension between enterprises’ business requirements and workers’ needs and preferences regarding their working time. Thus, in addition to longstanding concerns about working

<sup>67</sup> See Karl Hinrichs, William Roche and Carmen Sirianni, “From standardization to flexibility: Changes in the political economy of working time”, in Karl Hinrichs, William Roche and Carmen Sirianni (eds.): *Working time in transition: The political economy of working hours in industrial nations* (Temple University Press, Philadelphia, 1991), p. 4.

<sup>68</sup> See Deborah M. Figart and Lonnie Golden, “Introduction and overview: Understanding working time around the world”, in Lonnie Golden and Deborah M. Figart (eds.): *Working Time: International trends, theory, and policy perspectives* (London and New York, 2000), pp. 2-3.

<sup>69</sup> See J. Rojot, “Working time in industrialized countries: The recent evolution”, in Roger Blanpain and Chris Engels (eds.): *Comparative labour law and industrial relations in industrialized market economies* (6th edition) (Kluwer Law International, 1998), p. 438.

time and workers' health and safety, new concerns have emerged relating to employment security and stability, wages and non-wage compensation, and workers' ability to balance their paid work with the rest of their lives.<sup>70</sup>

25. Several international organizations, notably the Organisation for Economic Co-operation and Development (OECD) and the World Bank, have followed and researched these recent trends, and published studies on the issue of working hours. According to the OECD Policy Brief *Clocking in and clocking out: Recent trends in working hours*,<sup>71</sup> workers and employers should have considerable discretion to negotiate working-time arrangements in a decentralized manner. The workforce is very diverse, as are worksites, and a one-size-fits-all approach to working hours is not desirable. While there was much to recommend a decentralized approach to setting work schedules, it did not follow that general rules were not needed to structure this process or to enforce certain minimum standards (e.g. limits on maximum hours related to health and safety concerns). The Policy Brief further indicates that a second strategy for making progress is for the government to take an active role in fostering "family-friendly" employment practices. In particular, policies to encourage higher employment or working-time flexibility should be complemented by measures to help families to reconcile work and family life. The OECD Jobs Strategy recommends that governments take measures aimed at increasing working-time flexibility.<sup>72</sup>

26. The World Bank in its *World Development Report 2005: A better investment climate for everyone*<sup>73</sup> points out that regulations promoting health and safety conditions in the workplace, regulating working time, and encouraging paid leave have been major achievements in all societies. As in most other areas, improvements in working conditions in developed countries evolved gradually, hand in hand with more general economic progress. Attempting to apply the same or higher standards to countries at earlier stages of economic development and with weaker enforcement capacity often leads to poor or even perverse results.<sup>74</sup> According to the report, when regulations affecting working hours and paid leave are out of step with local realities, they can involve trade-offs between providing high levels of protection for workers who enjoy regulated employment and expanding protection and opportunities to a broader group of workers. Many developing countries have adopted far-reaching regulations on these subjects – in some cases going beyond what is on the books in most developed countries. Even among countries at similar stages of development, the differences in regulations can be large, with significant effects on labour cost and on the ability of firms to accommodate fluctuations in demand.<sup>75</sup>

27. The recent developments in the area of working hours have been subject to legislation by the European Union. Several directives dealing with the issue of working time have been adopted, notably the Council Directive 93/104/EC of 23 November 1993,

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<sup>70</sup> See ILO, Conditions of Work and Employment Programme, *Working time and work organization (WTWO): Trends and issues*. Available at: <http://www.ilo.org/public/english/protection/condtrav/time/index.htm>.

<sup>71</sup> See, e.g., OECD: *Clocking in and clocking out: Recent trends in working hours* (OECD, 2004). Available at: <http://www.oecd.org/dataoecd/42/49/33821328.pdf>.

<sup>72</sup> OECD: *Clocking in and clocking out: Recent trends in working hours*, p. 6.

<sup>73</sup> See, e.g., Chapter 7 "Workers and labour markets", in *World Development Report 2005: A better investment climate for everyone* (World Bank and Oxford University Press, 2005), pp. 136-156. Available at: [http://siteresources.worldbank.org/INTWDR2005/Resources/09\\_WDR\\_Ch07.pdf](http://siteresources.worldbank.org/INTWDR2005/Resources/09_WDR_Ch07.pdf).

<sup>74</sup> *World Development Report 2005: A better investment climate for everyone*, pp. 144-145.

<sup>75</sup> *ibid.*, p. 145. This evaluation is referred to later by the Committee of Experts in the conclusions.

concerning certain aspects of the organization of working time,<sup>76</sup> and Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time.<sup>77</sup> Acknowledging that the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations, and that all workers should have adequate rest periods, Directive 2003/88/EC lays down requirements for the organization of working time, including those in respect of periods of daily rest,<sup>78</sup> breaks,<sup>79</sup> weekly rest periods,<sup>80</sup> maximum weekly working time,<sup>81</sup> annual leave,<sup>82</sup> night work<sup>83</sup> and safety and health protection.<sup>84</sup>

28. Although, until the present survey, the Committee of Experts has not itself had an opportunity to analyse these recent developments, they were the focus of discussion at the Meeting of Experts on Working Time held in Geneva from 11 to 19 October 1993.<sup>85</sup> The experts at the Meeting agreed that certain provisions of Conventions Nos. 1 and 30 on hours of work related to the limitations on maximum hours of work over different periods did not adequately reflect some recent developments in working-time arrangements. However, they recognized that, with these exceptions, Conventions Nos. 1 and 30 were still relevant.<sup>86</sup> The experts (with the exception of those appointed by the Governing Body after consultation with the Employers' group) were in favour of revising the Conventions to reflect these concerns and to develop measures that ensure appropriate flexibility and adequate protection for workers.<sup>87</sup>

29. Recent ILO codification, in the shape of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), has demonstrated an innovative approach to the issue of working time for a specific industry. It provides for either a maximum number of hours of work, which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.<sup>88</sup> A European Agreement in respect of the working time of seafarers has been put into effect by means of Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST). This Directive has practically transferred

<sup>76</sup> *Official Journal of the European Union*, 1993 (L 307).

<sup>77</sup> *Official Journal of the European Union*, 2003 (L 299/9). Available at: [http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l\\_299/l\\_29920031118en00090019.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_299/l_29920031118en00090019.pdf).

<sup>78</sup> Article 3 of Directive 2003/88/EC.

<sup>79</sup> Article 4 of Directive 2003/88/EC.

<sup>80</sup> Article 5 of Directive 2003/88/EC.

<sup>81</sup> Article 6 of Directive 2003/88/EC.

<sup>82</sup> Article 7 of Directive 2003/88/EC.

<sup>83</sup> Article 8 of Directive 2003/88/EC.

<sup>84</sup> Article 12 of Directive 2003/88/EC.

<sup>85</sup> See GB. 258/ESP/6/6, Report of the Meeting of Experts on Working Time (Geneva, 11-19 October 1993). Twenty-one independent experts were invited to the Meeting, seven of them appointed after consultation with Governments, seven after consultation with the Employers' group and seven after consultation with the Workers' group of the Governing Body.

<sup>86</sup> *idem*, conclusions of the Meeting, para. 2.

<sup>87</sup> *idem*, para. 3.

<sup>88</sup> Article 3 of Convention No. 180.

Convention No. 180 into European law. The subsequent Directive 1999/95/EC of the European Parliament and of the Council of 13 December 1999 made it applicable to any ship calling at a community port, irrespective of the flag it flies.

30. New trends in the area of working time have also been analysed in a recent ILO publication *Working time and workers' preferences in industrialized countries: Finding the balance*.<sup>89</sup> This book examines the changing nature of working time in industrialized countries and concludes that finding the balance between business requirements and workers' needs will require working time policies along five dimensions: promoting health and safety; helping workers to better meet their family responsibilities; encouraging gender equality; advancing productivity; and facilitating worker choice and influence over their working hours.<sup>90</sup>

31. Finally, hours of work and related issues have also been discussed in the Committee on Employment and Social Policy during the 291st Session of the Governing Body of the International Labour Office (November 2004) in the context of global employment trends for youth. The Committee noted that those young women and men who are working often find themselves with poor job conditions, often working long hours at low wages, or under precarious, short-term contracts usually in the informal economy with no social security or other social benefits.<sup>91</sup>

### III. Structure of the survey

32. The present survey consists of ten chapters which progressively discuss the content of the Conventions; methods of application (by reference to legislation, arbitration awards, collective agreements and individual bargaining); statistical information about national practice; current trends in working-time schedules; impediments to ratification of the Conventions and finally a summary of conclusions with recommendations for the future.

33. Each of the subjects discussed in each of the chapters, are set out in the table of contents, and at the end of each chapter there are concluding comments relevant to that particular chapter.

34. Where possible, information on the relevant national legislation and statistical information about changes in working time in States, are set out in tables.

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<sup>89</sup> *Working time and workers' preferences in industrialized countries* (Jon S. Messenger, ed., Routledge, 2004).

<sup>90</sup> *Working time and workers' preferences in industrialized countries*, pp. 195-211.

<sup>91</sup> See GB.291/ESP/3(Rev.).

# Chapter I

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## Laws, regulations and other measures regarding the matters dealt with in the Conventions

### I. Methods of application of the Conventions

35. Effect can be given to the Conventions by two methods: (i) through laws or regulations made by public authority; and (ii) through agreements between the organizations or representatives of employers and workers. These two methods are not mutually exclusive, and neither of the Conventions precludes the application of its provisions through laws or regulations being combined with or supplemented by application through collective agreements. However, in the specific cases when the provisions of the Conventions require the adoption of laws or regulations,<sup>1</sup> such laws or regulations cannot be substituted by collective agreements.

#### Laws or regulations

36. Neither of the Conventions contains a definition of the term “competent authority”,<sup>2</sup> which is used interchangeably with the terms “public authority”,<sup>3</sup> “competent public authority”<sup>4</sup> and “government”.<sup>5</sup> Some guidance as to its meaning can be drawn from the interpretation of Article 1, paragraph 3(b), of Convention No. 30<sup>6</sup> made by the International Labour Office in 1930 at the request of the Ministry of Labour

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<sup>1</sup> See, e.g., Article 6 of Convention No. 1; Article 7 of Convention No. 30.

<sup>2</sup> The text of Convention No. 1 originally proposed by the Organizing Committee did not even mention this term, and provided that the line of division which separates industry on the one side and commerce and agriculture on the other shall be defined by national law. See Part 3 of Article 1 of the draft of a Convention to limit the hours of work in industrial undertakings to forty-eight in the week, *Report on the eight-hours day or forty-eight hours week*, op. cit., p. 142. The reference to the “competent authority” instead of “legislation in each country” was added by the Conference Commission on Hours of Work in view of the differences in meaning of the words “legislation” in the French text and the words “national laws” in the English text, which could have prevented the application of these provisions owing to the constitutional differences existing in the countries represented at the Conference. *Report on a draft Convention relating to the eight-hours day and the forty-eight hours week*, op. cit., p. 223.

<sup>3</sup> Article 6, paragraph 1, of Convention No. 1; Article 6 and Article 7, paragraph 1, of Convention No. 30.

<sup>4</sup> Article 2(b) of Convention No. 1.

<sup>5</sup> Article 5, paragraph 1; Article 7; Article 8, paragraph 1(a); and Article 14 of Convention No. 1; Article 9 of Convention No. 30.

<sup>6</sup> Under the terms of Article 1, paragraph 3(b), of Convention No. 30, it is open to the competent authority in each country to exempt from the application of the Convention offices in which the staff is engaged in connection with the administration of public authority.

of Germany.<sup>7</sup> As pointed out by the Office, the persons “engaged in the administration of public authority” are those who are entitled to give orders in the name of the State and to participate in the action necessary to carry out these orders.<sup>8</sup> Thus, for the purposes of Conventions Nos. 1 and 30, the “competent authority” is to be understood as a state body which has the right to prescribe mandatory rules giving effect to the provisions of the Conventions.

37. Neither of the Conventions specifically prescribes instances when laws should be adopted. However, certain indications may be obtained from analysis of the preparatory work, which reveals that the limitation of the working hours to eight hours a day and 48 hours a week should be laid down by the legislature.<sup>9</sup> On the other hand, the cases in which the competent authority is required to adopt regulations are specifically indicated in both Conventions. Under Convention No. 1, such regulations are prescribed to determine for industrial undertakings the permanent exceptions that may be allowed in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of an establishment, or for certain classes of workers whose work is essentially intermittent,<sup>10</sup> as well as the temporary exceptions that may be allowed so that establishments may deal with exceptional cases of pressure of work.<sup>11</sup> Similarly, under Convention No. 30, regulations have to be made by public authority to determine the permanent exceptions,<sup>12</sup> the temporary exceptions<sup>13</sup> and the number of additional hours of work which may be allowed in the day and, in respect of temporary exceptions, in the year.<sup>14</sup> Such regulations may also permit hours of work to be distributed over a period longer than a week.<sup>15</sup>

38. Although they require action by the competent authority, in a number of cases the Conventions do not specifically prescribe the exact legal form of such action. In accordance with Convention No. 1, the competent authority in each country is required to define the line of division which separates industry from commerce and agriculture,<sup>16</sup> but no explicit reference is made to the precise legal form of this definition. Similarly, under Convention No. 30, the competent authority in each country has to define the line which separates commercial and trading establishments, and establishments in which the persons employed are mainly engaged in office work, from industrial and agricultural establishments,<sup>17</sup> but once again the Convention does not prescribe the legal form to be taken by this definition. Convention No. 30 also places an obligation on ratifying countries to take the necessary measures in the form of penalties to ensure that the

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<sup>7</sup> “Interpretation of the decisions of the International Labour Conference: Convention concerning the regulation of hours of work in commerce and offices”, ILO, *Official Bulletin*, Vol. XVII, No. 3, pp. 117-123 (1932). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

<sup>8</sup> *idem*, p. 122.

<sup>9</sup> *Report on a draft Convention relating to the eight-hours day and the forty-eight hours week*, op. cit., pp. 2-3.

<sup>10</sup> Article 6, paragraph 1(a), of Convention No. 1.

<sup>11</sup> Article 6, paragraph 1(b), of Convention No. 1.

<sup>12</sup> Article 7, paragraph 1, of Convention No. 30.

<sup>13</sup> Article 7, paragraph 2, of Convention No. 30.

<sup>14</sup> Article 7, paragraph 3, of Convention No. 30.

<sup>15</sup> Article 6 of Convention No. 30.

<sup>16</sup> Article 1, paragraph 3, of Convention No. 1.

<sup>17</sup> Article 1, paragraph 1, of Convention No. 30.

provisions of the Convention are enforced.<sup>18</sup> Under Convention No. 30, the competent authority in each country may exempt from the application of the Convention: (a) establishments in which only members of the employer's family are employed; (b) offices in which the staff is engaged in connection with the administration of public authority; (c) persons occupying positions of management or employed in a confidential capacity; and (d) travellers and representatives, in so far as they carry on their work outside the establishment,<sup>19</sup> although the Convention does not specify the form in which these exemptions shall be made. Nevertheless, as these all involve collective standards rather than individual decisions, it may be concluded that they may take the form of regulations.

### Agreements between employers and workers

39. With regard to the second method of application, Convention No. 1 allows the distribution of the weekly hours of work to be arranged not only by the competent public authority but also by agreement between the organizations or representatives of employers and workers.<sup>20</sup> Convention No. 1 also provides that, in exceptional cases, where it is recognized that the provisions of Article 2 cannot be applied, but only in such cases, agreements between workers' and employers' organizations concerning the daily limit of work over a longer period of time may be given the force of regulations, if the Government, to which these agreements must be submitted, so decides.<sup>21</sup> Even though this case involves both collective agreements and regulations, it could also be classified as coming under the second method of giving effect to the provisions of Convention No. 1 because, in this instance, the Government does not make its own regulations, but approves existing collective agreements. No similar provisions were included into Convention No. 30.

## II. Existing national laws and other measures

40. Information received reveals that in the majority of countries hours of work are governed by laws or regulations, sometimes supplemented by collective agreements. These laws are either the national Constitution, labour codes or non-codified legislative acts which either deal exclusively with the regulation of hours of work or also cover other matters. Laws are normally supplemented by regulations, usually issued by the Ministry of Labour or a similar government body. The information which was available concerning countries where hours of work are governed by laws or regulations or other measures is summarized in Appendix VI.

41. In some cases, the provisions adopted in the area of hours of work through laws, regulations and collective agreements are supplemented by internal regulations adopted by employers at the level of a particular enterprise.<sup>22</sup>

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<sup>18</sup> Article 12 of Convention No. 30.

<sup>19</sup> Article 1, paragraph 3, of Convention No. 30.

<sup>20</sup> Article 2(b) of Convention No. 1.

<sup>21</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>22</sup> See Appendix VI.

42. In a number of countries, most of the issues relating to hours of work are governed not by “laws or regulations”, but by collective agreements, arbitration awards or other means, although certain specific issues may still be covered by statutory provisions.<sup>23</sup>

43. As far as *federal States* are concerned, depending on the manner in which competence is allocated for the regulation of hours of work under the national constitution, effect may be given to the provisions of Conventions at the federal level or, in whole or in part, at the level of the constituent states, provinces or cantons.<sup>24</sup>

### III. Concluding comments

44. Analysis of government reports and the information received from the social partners indicates that in a majority of countries the competent authorities deal with the regulation of working hours through the adoption of laws or regulations, i.e. along the lines prescribed by the Conventions. Nevertheless, in several cases, hours of work are regulated not by laws or regulations, but solely by collective agreements, individual agreements between employers and employees or awards.

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<sup>23</sup> See Appendix VI.

<sup>24</sup> See Appendix VI.



## Chapter II

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### Normal and actual hours of work

#### I. The concept of “hours of work”

##### A. The meaning of “hours of work” in the Conventions

45. Convention No. 1 itself does not contain a definition of the term “hours of work”. However, a definition was subsequently proposed at the Conference of Labour Ministers held in London in 1926, where it was agreed that working hours are the time during which the persons employed are at the disposal of the employer: they do not include rest periods posted in accordance with Article 8 of Convention No. 1, during which the persons employed are not at the disposal of the employer.<sup>1</sup> This definition of the term was then included in Convention No. 30.<sup>2</sup>

46. The definition of “hours of work” in both Conventions is based on the criteria of “being at the disposal of the employer”. However, the Conventions are silent on whether a period of time should be considered as “hours of work” in cases where workers are merely present at the workplace without performing work. It would therefore appear that what is required under both Conventions is that workers either have a duty to perform the work assigned by the employer or be at the disposal of the employer until work is assigned.

47. In this regard, rest periods, during which workers have to remain at the work premises could be considered as borderline cases. On the one hand, the workers are not normally expected to perform any work during this time; on the other hand, if the workers may not leave the work premises, they are not free to plan their own time and movements. There may also be differences as to the nature of the rest period and the place in which a rest period is taken. In some cases, the worker may take a break but, because of the short time period of the rest, may be unable to leave the work premises although be able to rest in an area other than the worksite. In other cases, the employer may allow the worker to take a break from work, but require the worker to remain at or near the worksite so as to be available if required. There is a need to differentiate between “hours of work” and “hours of rest” which should in turn be based on a determination whether, during this rest period, workers have either a duty to perform work assigned by the employer, or alternatively to be at the employer’s disposal until such work is required or assigned. If the answer to either question is yes, such periods

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<sup>1</sup> See “Conclusions of the Conference of Labour Ministers held in London from 15 to 19 March 1926”, ILO, *Official Bulletin*, Vol. XI, No. 3, p. 90 (1926).

<sup>2</sup> Article 2 of Convention No. 30.

should be considered as “hours of work” in accordance with the principles set out in the Conventions. By contrast, if the workers are not “at the disposal of the employer” during such rest periods, such periods do not have to be included in the “hours of work”.

48. Another arrangement which raises issues as to the scope of the “hours of work” and the criterion of being “at the disposal of the employer”, is the situation of workers being “on call” or “on standby”. Neither Convention specifically adverts to this situation. “On-call” time commonly includes situations in which the worker is required by the employer to either stay at home, or be in a stipulated place or be able to be contacted by telephone, in the event that the worker is required to attend work. However, there may be considerable variation in the circumstances in which the worker is on call.<sup>3</sup>

49. The question as to whether on-call time is included in hours of work or work time has been the subject of case law in contexts which vary from the wording of the Conventions, although in the case of the EC Directive 93/104/EC, there is wording which is somewhat similar to that which is contained in the Conventions. Article 2 of the Directive defines “working time” as “any period during which the worker is working, at the employer’s disposal and carrying out his activity or duties, in accordance with national laws and/or practice”. “Rest period” is also defined as “any period which is not working time”. Although the wording is not exactly the same, there is a close similarity in that in neither case is there a specific reference to on call,<sup>4</sup> but there is reference to the worker being “at the employer’s disposal”. This Directive was the subject of two preliminary rulings under Article 234 of the Treaty of Rome<sup>5</sup> in the context of doctors who were required to be physically present in the hospital and contactable even though they were permitted to rest. The court<sup>6</sup> concluded that the on-call time must in its entirety be regarded as working time. The issue of on-call work is already dealt with in the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180), stipulating that “in respect of situations when a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.”<sup>7</sup>

50. The term “on-call time” is not universally used. In instances, however, where it has been used, for example in the United States, it has been in the context of whether it

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<sup>3</sup> For example, a worker may be required to be on call at the premises of the employer (such as doctors in nearby accommodation facilities), or the worker may be required to be confined to home or other designated premises (which limits the activities which can be performed by the worker during that time), or the worker may be able to move around freely and perform a variety of ordinary activities so long as they are in telephone contact and are able to respond to a call to go to work.

<sup>4</sup> There is a proposal to amend Directive 2003/88/EC to retain the definitions of “working time” and “rest period” but to add “1a. ‘on-call time’: period during which the worker has the obligation to be available at the workplace in order to intervene, at the employer’s request, to carry out his activity or duties” and “1b. ‘inactive part of on-call time’: period during which the worker is on call within the meaning of Article 1a, but not required by his employer to carry out his activity or duties”. See Commission of the European Communities, Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organization of working time. COM(2004) 0697 final; 2004/0209 (COD). Available at: [http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2004/com2004\\_0607en01.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2004/com2004_0607en01.pdf).

<sup>5</sup> Case C-151/02 *Jaeger* [2003] ECR I-8389. Available at: <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&docrequire=alldocs&numaff=&datefs=&datefe=&nomusuel=jaeger&domaine=&mots=&resmax=100>; Case C-303/98 *Simap* [2000] ECR I-7963, available at: <http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&docrequire=alldocs&numaff=&datefs=&datefe=&nomusuel=simap&domaine=&mots=&resmax=100>.

<sup>6</sup> In the *Jaeger* case.

<sup>7</sup> Paragraph 4 of Article 5 of Convention No. 180.

should be compensable as overtime.<sup>8</sup> The principles, which have been applied by the United States courts as to whether it ought to be compensated, have included:

- whether the workers' time is spent predominantly for the employer's benefit or for the workers' benefit;<sup>9</sup>
- the mere fact that an employer requires the workers to leave work as to where they can be reached will not mean that it is thereby compensable;<sup>10</sup>
- the workers must show that the on-call requirement imposed additional burdens that seriously interfered with the ability of the workers to use the time for personal pursuits;<sup>11</sup>
- the proper inquiry is whether a worker is so restricted during on-call hours as to be effectively engaged to wait.<sup>12</sup>

51. Whilst some assistance can be drawn from such interpretations, in the final result it is a question of the wording of these Conventions and their context. A clear distinction should be made between periods of performing work, periods of rest and periods during which the employee remains at the disposal of the employer without performing actual work. It is to be noted that the criterion of "being at the disposal of the employer" does not require that it be "solely" at such disposal and it would appear to be open to a worker to be able to use some time for personal activities, or to put it another way, the use of the phrase "disposal of the employer" does not exclude the worker from being able to pursue some personal activities. The issue is the extent to which the worker is restricted from engaging in personal activities during on-call hours, so as to be effectively at the disposal of the employer. This must be a matter of characterization in the circumstances of each case. Thus the time spent "on call" may or may not be regarded as "hours of work" within the meaning of the Conventions, depending on the extent to which the worker is restricted from engaging in personal activities during that time. However, it should be stressed that when such time is counted as "hours of work", the employee must be entitled to remuneration for such time as "hours of work" (including overtime). When such time is not regarded as "hours of work", the employee should still be entitled to some payment in recognition of the time spent "on call" with a clear understanding of the terms and conditions of being "on call".

## B. "Hours of work" in national laws and practice

52. The statutory definitions of hours of work differ from the approach used in the Conventions to a significant degree in a number of countries. Under many of these definitions, to be considered as hours of work, it is not sufficient that the employee is at the disposal of the employer during the respective period. This requirement is supplemented, or even replaced in certain cases, by the requirement to be present at the workplace, to perform duties under the management or supervision of the employer or not to be free to leave the workplace.

<sup>8</sup> See, e.g., *May v. Arkansas Forestry Comm'n*, 938 F.2d 912 (8th Cir. 1991); *Martin v. Ohio Turnpike Comm'n*, 968 F.2d 606 (6th Cir. 1992); *Gilligan v. City of Emporia*, 986 F.2d 410 (10th Cir. 1993); *Berry v. Sonoma County*, 30 F.3d 1174 (9th Cir. 1994); *Gene Ingram and others v. County of Bucks*, 144 F.3d 265 (3rd Cir. 1998).

<sup>9</sup> *Martin v. Ohio Turnpike Comm'n*, 968 F.2d 606 (6th Cir. 1992).

<sup>10</sup> *Martin v. Ohio Turnpike Comm'n*, 968 F.2d 606 (6th Cir. 1992).

<sup>11</sup> *Martin v. Ohio Turnpike Comm'n*, 968 F.2d 606 (6th Cir. 1992).

<sup>12</sup> *Berry v. Sonoma County*, 30 F.3d 1174 (9th Cir. 1994).

53. For example, in *Estonia*, the term “working time” means the time determined by law, administrative provisions, collective agreement, employment contract or agreement between the parties during which employees are required to perform their duties in subordination to the management and under the supervision of the employer.<sup>13</sup> In *Finland*, the term “working hours” is defined as the time spent on work and the time that an employee is required to be present at a place of work at the employer’s disposal.<sup>14</sup> Daily periods of rest are not included in working hours if the employee is free to leave the place of work during these times.<sup>15</sup> Travel time is not included in working hours if it does not constitute the performance of work.<sup>16</sup> In *Sweden*, the Working Hours Act in principle applies to all activities in which an employee performs work on behalf of an employer.<sup>17</sup> In accordance with section 2, however, this Act does not apply to: (i) work performed in the employee’s home or otherwise under such circumstances that it cannot be deemed the employer’s responsibility to supervise the manner in which the work is structured; (ii) work performed by an employee who, taking into account the duties and conditions of employment, occupies a managerial or comparable position or by an employee who, taking into account the nature of her or his duties, is entrusted with the structuring of her or his own working hours; (iii) work performed in the employer’s household; and (iv) work on board a ship.

54. The approach adopted by a number of countries to the issue of whether “on-call time” or “standby time” should be considered as hours of work also differs from the principles respecting hours of work upon which the Conventions are based. In some cases, standby time is simply excluded from regular working hours. This is the case, for example, in *Estonia*,<sup>18</sup> *Finland*<sup>19</sup> and *Sweden*.<sup>20</sup>

55. Another approach is to include certain types of “on-call time” in hours of work, while excluding certain other types. In the *United States*, the Department of Labor has issued regulations holding that time spent at home on call may or may not be compensated, depending on whether the restrictions placed on the employee preclude using the time for personal pursuits. Where, for example, a firefighter has returned home after a shift, with an understanding that he or she is expected to return to work in the event of an emergency in the night, such time spent at home is normally not compensated. On the other hand, where the conditions placed on the employee’s activities are so restrictive that the employee cannot use the time effectively for personal pursuits, such time spent on call should be compensated.<sup>21</sup>

56. Despite differences in details, all these approaches have a similar effect in that they narrow the scope of the term “hours of work” in the respective national legislation as

<sup>13</sup> Section 3 of the Working and Rest Time Act.

<sup>14</sup> Section 4(1) of the Working Hours Act.

<sup>15</sup> Section 4(2) of the Working Hours Act.

<sup>16</sup> Section 4(3) of the Working Hours Act.

<sup>17</sup> Section 1(1) of the Working Hours Act.

<sup>18</sup> Section 10(3) of the Working and Rest Time Act.

<sup>19</sup> Section 5(1) of the Working Hours Act.

<sup>20</sup> Section 6 of the Working Hours Act.

<sup>21</sup> Application of the Fair Labor Standards Act to Employees of State and Local Governments: Compensable Hours of Work. 29 C.F.R. 553.221. Available at: [http://www2.dol.gov/dol/allcfr/ESA/Title\\_29/Part\\_553/29CFR553.221.htm](http://www2.dol.gov/dol/allcfr/ESA/Title_29/Part_553/29CFR553.221.htm). For further details, see, e.g., Mark A. Rothstein et al., *Employment law* (2nd edition, West, 1999), pp. 273-274.

compared with the concept used in the Conventions. Indeed, the broad definition in the Conventions of the term may have prevented certain countries from ratifying them.

## II. Limits on normal daily and weekly hours of work

### A. Limits prescribed by the Conventions

57. Under both Conventions, as a general rule, normal working hours should not exceed eight in the day and 48 in the week.<sup>22</sup> These limitations on normal working hours laid down in the Conventions should be viewed as strict maximum limits which are not liable to variation or waiver at the free will of the parties.<sup>23</sup>

58. The limits on normal working hours prescribed by the Conventions apply to a particular employment relationship, but do not cover the case of persons working on their own account or of those, who, solely because of additional work outside their main employment, in the aggregate works in excess of the maximum authorized normal hours of work.<sup>24</sup>

### B. Limits in national laws and practice

59. Even though, in the majority of countries, the limits on the normal weekly hours of work are prescribed by national laws or regulations, they are sometimes established through other methods. In *Australia*, at the federal level, the standard hours of work vary between and within occupations and industries, depending on the terms of the awards of the Australian Industrial Relations Commission (AIRC) or agreements between the employer and employees at the workplace or enterprise level.<sup>25</sup> A 38-hour working week has been provided for under the National Wage Fixation Principles set by the AIRC for the federal jurisdiction since 1983, and the majority of federal awards and agreements have now adopted this standard. As far as individual states are concerned, in New South Wales the number of ordinary working hours of an employee when set by an award must not exceed 40 hours per week, averaged over a 12-week period; however, these ordinary hours may be averaged over a period not exceeding 52 weeks in the case of seasonal employment.<sup>26</sup> The actual level of hours of work is fixed for each industry or occupation by the common rule award system. Generally, this is 38 hours a week or an average cycle of 38 hours a week, even though there are some awards that continue to reflect a 40-hour week. Additionally, most awards stipulate a daily limit of hours. Depending on the industry, this may vary between eight and 12 hours, excluding meal breaks. In Queensland, the periods for which an employee is required to work must not exceed: (a) six days in any seven consecutive days; or (b) 40 hours in any six consecutive days; or (c) eight hours in any day.<sup>27</sup> Awards and agreements specifying

<sup>22</sup> Article 2 of Convention No. 1; Article 3 of Convention No. 30.

<sup>23</sup> International Labour Conference, "Interpretation of a decision concerning the Hours of Work (Industry) Convention, 1919 (No. 1) (Articles 2 and 8)", ILO, *Official Bulletin*, Vol. XLIII, No. 7, pp. 566-567 (1960). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

<sup>24</sup> *idem*.

<sup>25</sup> See *Australia*, in *International Employment Law*, Vol. 1, AUST 20-21 (Matthew Bender & Company, 2002).

<sup>26</sup> Sections 22(1) and 22(2) of the Industrial Relations Act, 1996, of New South Wales (available at: [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/ira1996242/](http://www.austlii.edu.au/au/legis/nsw/consol_act/ira1996242/)).

<sup>27</sup> Section 9(2) of the Industrial Relations Act, 1999, of Queensland (available at: [http://www.austlii.edu.au/au/legis/qld/consol\\_act/ira1999242/](http://www.austlii.edu.au/au/legis/qld/consol_act/ira1999242/)).

hours of work in Queensland generally determine ordinary hours of work on the basis of 38-40 hours per week. No statutory limitation on hours of work exists in Western Australia.

60. The existing limits on normal daily and weekly hours of work in 177 countries throughout the world as well as the changes to these limits over the last 20 years, are summarized in table I.<sup>28</sup> In a number of these countries, notably the EU countries, the limits on normal weekly hours of work include overtime.

61. The 48-hour limit on the weekly duration of working hours is applied in 61 countries.<sup>29</sup>

62. Nevertheless, in a larger number of countries, weekly limits lower than 48 hours have been established. This is the case in 107 countries.<sup>30</sup>

63. Higher limits than those prescribed by the Conventions have been established in Switzerland.

64. Over the past 20 years, normal weekly working hours have decreased in 46 countries.<sup>31</sup>

65. Normal weekly working hours have remained the same since 1984 in 95 countries.<sup>32</sup>

<sup>28</sup> This table was compiled on the basis of the information provided by governments or, where there was no report, on the basis of the 2003 *Yearbook of Labour Statistics* (62nd issue, ILO, Geneva, 2003).

<sup>29</sup> *Antigua and Barbuda, Argentina, Bahrain, Bangladesh, Bolivia, Botswana, Cambodia, Chile, Colombia, Costa Rica, Cyprus, Denmark, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Germany, Guatemala, Guyana, Haiti, India, Iraq, Ireland, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Malawi, Malaysia, Mauritius, Morocco, Mozambique, Nepal, Netherlands, Nicaragua, Oman, Pakistan, Panama, Paraguay, Peru, Qatar, San Marino, Saudi Arabia, Somalia, Sri Lanka, Sudan, Suriname, Swaziland (manufacturing and processing industries), Syrian Arab Republic, Thailand, Tunisia, Uganda, United Arab Emirates, United Kingdom, Uruguay, Viet Nam, Yemen, Zambia and Zimbabwe (security services).*

<sup>30</sup> *Afghanistan, Albania, Algeria, Angola, Armenia, Australia, Austria, Azerbaijan, Bahamas, Barbados (shops), Belarus, Belgium, Belize (shops), Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic (non-agricultural work), Chad (non-agricultural work), China, Comoros, Congo (non-agricultural work), Côte d'Ivoire (non-agricultural work), Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Gabon, Gambia, Georgia, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Israel, Italy, Jamaica, Japan, Kazakhstan, Republic of Korea, Kyrgyzstan, Latvia, Lesotho, Lithuania, Luxembourg, Madagascar, Mali, Malta, Mauritania, Republic of Moldova, Mongolia, Myanmar, Namibia, New Zealand, Niger, Nigeria, Norway, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka (shops and offices), Sweden, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago (shops), Turkey, Turkmenistan, Ukraine, United States, Uzbekistan, Vanuatu, Venezuela and Zimbabwe.*

<sup>31</sup> *Algeria, Australia, Azerbaijan, Bahamas, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Chad, China, Croatia, Czech Republic, Estonia, France, Greece, Guinea-Bissau, Hungary, Islamic Republic of Iran, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Republic of Moldova, Mongolia, Papua New Guinea, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Serbia and Montenegro, Slovakia, Slovenia, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Turkmenistan, Ukraine, Uzbekistan and Venezuela.*

<sup>32</sup> *Afghanistan, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bolivia, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Finland, Gabon, Georgia, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iraq, Ireland, Jamaica, Jordan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Panama,*

66. In nine instances, the normal weekly hours of work have increased over the past 20 years.<sup>33</sup>

67. Of the countries in which weekly limits of 48 hours or lower have been established, Convention No. 1 has not been ratified by 119 countries.<sup>34</sup>

68. In the same group of countries, Convention No. 30 has not been ratified by 138 countries.<sup>35</sup>

### III. National averages of the number of hours actually worked or paid

69. The statutory limits respecting normal working hours in a given country do not necessarily reflect the hours actually worked. Table I provides information on the weekly hours actually worked throughout the world at the beginning of the twenty-first century, as well as on the changes in these hours over the past 20 years. However, the overall picture is still far from clear, due in part to the non-submission of reports<sup>36</sup> and to the lack of comprehensive statistical data. Having regard to the importance of this

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*Paraguay, Peru, Qatar, San Marino, Saudi Arabia, Senegal, Singapore, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Thailand, Togo, Uganda, United Arab Emirates, United States, Uruguay, Yemen and Zambia.*

<sup>33</sup> This is the case in *Botswana, Cyprus, Denmark, Fiji, Germany (East), Grenada, Mauritius, Tunisia and the United Kingdom.*

<sup>34</sup> *Afghanistan, Albania, Algeria, Antigua and Barbuda, Armenia, Australia, Austria (conditional ratification, 12 June 1924), Azerbaijan, Bahamas, Bahrain, Barbados, Belarus, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, China, Congo, Côte d'Ivoire, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France (conditional ratification, 2 June 1927), Gabon, Gambia, Georgia, Germany, Grenada, Guinea, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy (conditional ratification, 6 October 1924), Jamaica, Japan, Jordan, Kazakhstan, Kenya, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Latvia (conditional ratification, 15 August 1925), Lesotho, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Republic of Moldova, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand (denunciation, 9 June 1989), Niger, Nigeria, Norway, Oman, Panama, Philippines, Poland, Qatar, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Senegal, Serbia and Montenegro, Singapore, Slovenia, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Tajikistan, United Republic of Tanzania, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Kingdom, United States, Uzbekistan, Vanuatu, Viet Nam, Yemen, Zambia and Zimbabwe.*

<sup>35</sup> *Angola, Antigua and Barbuda, Armenia, Australia, Austria (conditional ratification, 16 February 1933), Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, China, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland (denunciation, 23 June 1999), France, Gabon, Gambia, Georgia, Germany, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Republic of Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lesotho, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Republic of Moldova, Mongolia, Myanmar, Namibia, Nepal, Netherlands, New Zealand (denunciation, 9 June 1989), Niger, Nigeria, Oman, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Tajikistan, United Republic of Tanzania, Thailand, The former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia and Zimbabwe.*

<sup>36</sup> Reports from 84 countries have been received. Reports from 68 countries have not been received. See Appendix VII.

issue, it would be desirable for governments to be required to include in their future reports under article 22 of the ILO Constitution specific information on the national averages of the number of hours actually worked or paid.

70. Based on information received, the hours actually worked per week are lower than the standard prescribed by the Conventions in 59 countries.<sup>37</sup>

71. The hours actually worked per week are higher than the standard prescribed by the Conventions in four countries.<sup>38</sup>

72. The information currently available shows that, over the past 20 years, the hours actually worked per week have decreased in ten countries.<sup>39</sup> On the other hand, over the same period, the hours actually worked per week increased in six countries.<sup>40</sup>

#### IV. Sectors in which limits lower than the national limits have been introduced

73. Analysis of the reports received shows that, in a number of sectors of economic activity, statutory limits lower than the national limits for ordinary hours of work have been introduced.<sup>41</sup>

74. Such lower limits have been established in:

- agriculture, hunting and forestry, in *Belgium, France, Madagascar, Portugal and Switzerland*;
- mining and quarrying, in *Belarus, Belgium, Estonia, Poland, Portugal, South Africa and Switzerland*;
- manufacturing, in *Australia, Belarus, Belgium, Hungary, Madagascar, Mauritius, Portugal, South Africa and Tunisia*;
- electricity, gas and water supply, in *Belarus, Belgium, Canada, Poland and Portugal*;
- construction, in *Australia, Belarus, Belgium, El Salvador, Panama, South Africa and Switzerland*;
- the wholesale and retail trade, repair of motor vehicles, motorcycles and personal and household goods, in *Belgium, Canada, France, Madagascar, Portugal, South Africa and Switzerland*;
- hotels and restaurants, in *Australia, Belgium, Madagascar and Switzerland*;

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<sup>37</sup> Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Dominica, Dominican Republic, El Salvador (in the services sector), Estonia, Fiji, Finland, France, Gabon, Georgia, Germany, Hungary, Iceland, Ireland, Israel, Jamaica, Republic of Korea, Kyrgyzstan, Latvia, Lithuania, Mauritius, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Papua New Guinea, Philippines, Poland, Portugal, Russian Federation, San Marino, Singapore, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Ukraine, United Kingdom, United States, Uruguay and Zimbabwe.

<sup>38</sup> Egypt, El Salvador (in the manufacturing sector), Peru (in the manufacturing sector) and Thailand.

<sup>39</sup> Armenia, Belgium, Costa Rica (in the manufacturing sector), France, Germany, Ireland (in the manufacturing sector), Kyrgyzstan, Singapore, Switzerland and the United Kingdom.

<sup>40</sup> Australia, Egypt, Latvia, New Zealand, Panama and Sweden.

<sup>41</sup> The sectors are listed in accordance with the *International Industrial Classification of All Economic Activities* (ISIC – Rev.3). For the classification itself, see 2003 *Yearbook of Labour Statistics* (62nd issue, ILO, Geneva, 2003), p. 1719.



- transport, storage and communications, in *Belarus, Belgium, Canada, Madagascar, Mauritius, Mexico, Poland, Portugal and South Africa*;
- financial intermediation, in *Belgium, Brazil, Greece, Poland, South Africa, Tunisia and Zimbabwe*;
- real estate, renting and business activities, in *Belgium, India, Portugal, Switzerland and Tunisia*;
- public administration and defence, compulsory social security, in *Australia, Belgium, Canada, Dominica, El Salvador, Kenya and Namibia*;
- education, in *Belgium, Estonia, Georgia, Italy, Lithuania, Mauritius, Poland and Portugal*;
- health and social work, in *Belgium, Brazil, Estonia, France, Georgia, Honduras, Lithuania, Madagascar, Poland, Slovenia and South Africa*;
- other community, social and personal service activities, in *Belgium, Poland, Portugal and Tunisia*.

75. No industries are allowed to work less than the state-stipulated hours in *China*.

76. Finally, the Government of the *United Kingdom* points out that collective bargaining in the United Kingdom takes place at the level of individual undertakings, rather than the sectoral level and that lower limits for working hours are therefore established at the level of the undertaking rather than the sector.

## V. Sectors in which the level of working hours may exceed the generally applicable standard (extension of hours of work)

77. Analysis of the reports received shows that, in a number of countries, the national legislation allows the level of working hours to exceed the prescribed standard in certain sectors of the economy. Time worked in excess of the statutory duration of working hours in these cases is not generally considered as overtime.

78. Higher limits have been established in the following sectors:

- agriculture, hunting and forestry, in *Australia, Belarus, Canada, Estonia, Gabon, Honduras, Italy, Panama, Suriname, Thailand and the United States*;
- fishing, in *Australia, Canada, Estonia and Thailand*;
- mining and quarrying, in *Canada, Indonesia and Suriname*;
- manufacturing, in *Fiji*,<sup>42</sup> *Philippines*<sup>43</sup> and *Senegal*;
- electricity, gas and water supply, in *El Salvador, Lithuania, Senegal and Suriname*;
- construction, in *Australia, Belarus, Canada, Estonia, Indonesia, Suriname and Turkey*;
- the wholesale and retail trade, repair of motor vehicles, motorcycles and personal and household goods, in *Benin, Canada, Gabon, Grenada, Senegal, United Arab Emirates and the United States*;

<sup>42</sup> Garment industry.

<sup>43</sup> Semi-conductor industry.

- hotels and restaurants, in *Australia, Benin, Gabon, Grenada, Italy, Senegal, Turkey* and the *United Arab Emirates*;
- transport, storage and communications, in *Belarus, Canada, Dominica, Estonia, Gabon, Honduras, India,* <sup>44</sup> *Lithuania, Senegal, Turkey, United States* and *Viet Nam*;
- financial intermediation, in *Canada* and *Estonia*;
- real estate, renting and business activities, in *Australia, Canada, El Salvador, Gabon, Grenada, United Arab Emirates* and the *United States*;
- public administration and defence, compulsory social security, in *Dominica*;
- education, in *Canada*;
- health and social work, in *Benin, Brazil, Canada, Dominica, El Salvador, Gabon, Latvia, Senegal, Turkey* and the *United States*;
- other community, social and personal service activities, in *Benin, Canada, Lithuania, Portugal* and *Turkey*;
- for employed persons in private households, in *Canada, Gabon, Grenada, Honduras* and *Thailand*;
- extra-territorial organizations and bodies, in *Canada*.

79. The Government of the *Central African Republic* indicates that in certain sectors of activity, because of their importance or sensitivity, duration of work exceeding the prescribed standard could be established.

80. By contrast with the countries in paragraphs 78 and 79 above, a number of governments indicate that the weekly limit on working hours can be increased only in the context of overtime. This is the case in *Czech Republic, Ecuador, Sweden* and *Switzerland*.

81. Certain other governments point out that in all industries or activities an extended working week can only be adopted because of *force majeure*, an extraordinary increase in the volume of work or in similar cases. This is the case in *Côte d'Ivoire* and *Croatia*.

82. No industries are allowed to work more than the state-stipulated hours of work in *China*.

## VI. Concluding comments

83. The analysis of the normal and actual duration of work throughout the world reveals a general tendency for the reduction of the normal working hours over the past 20 years, with a few notable exceptions.

84. Furthermore, the large number of countries in which weekly limits of 48 hours or lower have been already established, but which have still not ratified one or both Conventions, suggests that it is not the 48-hour limit of itself which prevents countries from ratifying these instruments.

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<sup>44</sup> According to the Government, working hours sometimes exceed the prescribed limit in the information technology sector. However, there is provision for overtime pay for hours worked beyond normal working hours.

**Table I. Working time in ILO member States (changes from 1984 to 2004) <sup>1</sup>**

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Afghanistan			40	40	N/A <sup>3</sup>	N/A	0	N/A
Albania			N/A	40	N/A	N/A	N/A	N/A
Algeria			44	40	44.5 (1977)	N/A	-4	N/A
Angola	Yes		44	44	N/A	N/A	0	N/A
Antigua and Barbuda			48 (40 – collective agreements)	48	N/A	N/A	0	N/A
Argentina	Yes	Yes	48	48	N/A	39.2 (2002)	0	N/A
Armenia			41 (USSR)	41	40.7 (manufacturing, 1981) (USSR)	37.2 (manufacturing, 1997)	0	-3.5
Australia			40	38	34.5 (1982)	41.2 (2003)	-2	+6.7
Austria	Conditional	Conditional	40	40	144.5 (per month, manufacturing, 1982)	36.8 (manufacturing, 2002)	0	N/A
Azerbaijan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Bahamas			48	40	N/A	N/A	-8	N/A
Bahrain			48	48	N/A	N/A	0	N/A
Bangladesh	Yes		48	48	N/A	8 hours per day	0	N/A
Barbados			40	40 (shops)	N/A	N/A	0	N/A
Belarus			41	40	40.4 (manufacturing, 1982)	N/A	-1	N/A
Belgium	Yes		40 (38 – collective agreements)	40	33.6 (1982)	33 (1998)	0	-0.6
Belize			48 (government workers)	45 (shops)	N/A	N/A	N/A	N/A
Benin			40	40	N/A	N/A	0	N/A
Bolivia	Yes	Yes	48	48	45.6 (1981)	44.67 (manufacturing, 1996)	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Bosnia and Herzegovina			42 (Yugoslavia)	40	184 (per month, 1982) (Yugoslavia)	N/A	-2	N/A
Botswana			47.5 (shops and offices)	48	N/A	N/A	+0.5	N/A
Brazil			48	44	N/A	46.8 (commerce), 43.8 (industry), 40.3 (service) (2001)	-4	N/A
Bulgaria	Yes	Yes	42.2	40	N/A	33 (manufacturing, 2001)	-2.2	N/A
Burkina Faso			N/A	40	N/A	N/A	N/A	N/A
Burundi	Yes		45	45	45 (1982)	N/A	0	N/A
Cambodia			N/A	48	N/A	N/A	N/A	N/A
Cameroon			40	40	N/A	N/A	0	N/A
Canada	Yes		40 (federal legislation) (35-40 – collective agreements)	40 (federal legislation)	37.6 (manufacturing, 1982)	36.6 (2003)	0	N/A
Cape Verde			44 (39 white collar, 36.5 public servants)	44	N/A	N/A	0	N/A
Central African Republic			40	40 (non-agricultural work)	N/A	N/A	0	N/A
Chad			40	39 (non-agricultural work)	N/A	N/A	-1	N/A
Chile	Yes	Yes	48	48	N/A	43.9 (2000)	0	N/A
China			48	40	N/A	N/A	-8	N/A
Colombia	Yes	Yes	48	48	N/A	47.7 (1998)	0	N/A
Comoros	Yes		40	40	N/A	N/A	0	N/A
Congo			40	40 (non-agricultural work)	N/A	N/A	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Costa Rica	Yes		48	48	48 (manufacturing, 1982)	On average – 46.26, manufacturing 47.53 (2003)	0	–0.47 (manufacturing)
Côte d'Ivoire			40	40 (non-agricultural work)	N/A	173.33 per month	0	N/A
Croatia			42 (Yugoslavia)	40	184 (per month, 1982) (Yugoslavia)	8 hours per day	–2	N/A
Cuba	Yes	Yes	44	44	N/A	N/A	0	N/A
Cyprus			44 (41-42 – collective agreements)	48	42 (October, 1982)	40.2 (manufacturing, 2000)	N/A	N/A
Czech Republic	Yes		46 (in practice – 42.5 maximum) (Czechoslovakia)	40	43.1 (manufacturing, 1982) (Czechoslovakia)	43 (2nd quarter of 2003)	–6	N/A
Democratic Republic of the Congo			N/A	45	N/A	N/A	N/A	N/A
Denmark			40	48 per week calculated over a period of 4 months	33 (manufacturing, 1982)	N/A	+8	N/A
Djibouti	Yes		40	40	N/A	N/A	0	N/A
Dominica			40	40	N/A	40	0	N/A
Dominican Republic	Yes		44	44	N/A	44 (1997)	0	N/A
Ecuador			40	40	45 (manufacturing, 1981)	8 hours per day	0	N/A
Egypt	Yes	Yes	48	48	55 (1978, October, provisional)	56 (1999)	0	+1
El Salvador			44	44	44.5 (men, manufacturing, 1981)	46 (services), 50 (manufacturing, specialists), 52 (manufacturing, workers)	0	N/A
Equatorial Guinea	Yes	Yes	48	48	N/A	N/A	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Eritrea			N/A	48	N/A	N/A	N/A	N/A
Estonia			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	42 (2002)	-1	N/A
Ethiopia			48	48	N/A	N/A	0	N/A
Fiji			45 (building and engineering)	45-48	N/A	45	+3	N/A
Finland		Denounced	40 (35-40 – collective agreements)	40	40.4 (manufacturing, 1982)	37.4 (2003)	0	N/A
France	Conditional		39	35	39.7 (1982)	35.6 (2003)	-4	-4.1
Gabon			40	40	N/A	40	0	N/A
Gambia			N/A	N/A	N/A	N/A	N/A	N/A
Georgia			41 (USSR)	41	40.7 (manufacturing, 1981) (USSR)	7.6 per day (industry, 2004)	0	N/A
Germany			43.75 (German Dem. Rep.); 48 (Fed. Rep. of Germany)	48 (in practice – 39.1 in the East, 37.4 in the West)	40.7 (1982) (Fed. Rep. of Germany)	38.9 (manufacturing), 40.5 (services) (in the West, 2001); 40.1 (manufacturing and services) (in the East, 2001)	+4.25 (East); 0 (West)	-0.9 (manufacturing, in the West), -0.2 (services, in the West)
Ghana	Yes	Yes	45	45	N/A	N/A	0	N/A
Greece	Yes		48 (41 – collective agreements)	40 (40 – collective agreements)	38.6 (manufacturing, 1982)	N/A	-8	N/A
Grenada			39 (minor industry)	40 (construction, industry) 44 (clerical assistants, shop assistants)	N/A	N/A	+1	N/A
Guatemala	Yes	Yes	48	48	47.4 (manufacturing, 1979)	N/A	0	N/A
Guinea			40	40	N/A	N/A	0	N/A
Guinea-Bissau	Yes		48	45	N/A	N/A	-3	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Guyana			48 (44 in government)	48 (44 – sawmill workers, 42 – printing trade workers)	N/A	N/A	0	N/A
Haiti	Yes	Yes	48	48	N/A	N/A	0	N/A
Honduras			44	44	N/A	N/A	0	N/A
Hungary			42	40	153.8 (per month, manufacturing, 1982)	149.1 per month on average, 151.4 per month – full-time manual workers (2002)	–2	N/A
Iceland			40	40	49.4 (1982)	43.5 (manufacturing, 2001)	0	N/A
India	Yes		48	48	N/A	48	0	N/A
Indonesia			40	40	N/A	N/A	0	N/A
Iran, Islamic Rep. of			48	44	N/A	N/A	–4	N/A
Iraq	Yes	Yes	48	8 per day, 48 per week	N/A	N/A	0	N/A
Ireland			48 (40 – collective agreements)	48	40.5 (manufacturing, 1982)	39.6 (manufacturing, 2001)	0	–0.9 (manufacturing)
Israel	Yes	Yes	47	45	36.2 (1982)	42.2 (manufacturing, 2002)	–2	N/A
Italy	Conditional		48 (40 – collective agreements)	40	7.74 (per day, 1982)	Commerce (per year): 2,080 (gross), 1,708 (net); ministries (per year): 1,872 (gross), 1,555 (net) (2003)	–8	N/A
Jamaica			40	40	N/A	40	0	N/A
Japan			48 (36-48 – collective agreements)	40	40.3 (1982)	1,846 per year (2003)	–8	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Jordan			48	48	N/A	N/A	0	N/A
Kazakhstan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Kenya			41-54	48	N/A	48	+7 (lower limit); -6 (upper limit)	N/A
Kiribati			N/A	N/A	N/A	N/A	N/A	N/A
Korea, Rep. of			N/A	44	N/A	47.7 (manufacturing, 2002)	N/A	N/A
Kuwait	Yes	Yes	48	48	N/A	N/A	0	N/A
Kyrgyzstan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	32.2 (manufacturing, 1999)	-1	-8.5
Lao People's Democratic Republic			48	48	N/A	N/A	0	N/A
Latvia	Conditional		41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	47.8 (men, private sector 44.9 (women, private sector), 41.8 (men, public sector), 39.8 (women, public sector)	-1	+7.1 (men, private sector), +4.2 (women, private sector)
Lebanon	Yes	Yes	48	48	N/A	N/A	0	N/A
Lesotho			45	45	N/A	N/A	0	N/A
Liberia			48	N/A	N/A	N/A	N/A	N/A
Libyan Arab Jamahiriya	Yes		48	48	N/A	N/A	0	N/A



Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Lithuania	Yes		41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	Per month: 156 (all workers and state officials, excluding private enterprises), 157 (men), 154 (women), 148 (all state officials), 153 (male officials), 145 (female officials) (second quarter of 2003)	-1	N/A
Luxembourg	Yes	Yes	40	40	40.6 (1981)	N/A	0	N/A
Madagascar			40 (44 in state functions)	40 (non-agricultural sector)	N/A	N/A	0	N/A
Malawi			48	48	N/A	N/A	0	N/A
Malaysia			48	48	44.6 (Peninsular), 53 (Sabah), 46.2 (Sarawak) (1979)	N/A	0	N/A
Mali			40	40	N/A	N/A	0	N/A
Malta	Yes		48	40	N/A	N/A	-8	N/A
Mauritania			40	40	N/A	N/A	0	N/A
Mauritius			40	48 (45 – remuneration orders)	N/A	45	+8 (+5)	N/A
Mexico		Yes	48 (40 – civil service)	8 per day (day work), 7 (night work), 7.5 (mixed work)	46 (manufacturing, 1981)	8 per day	N/A	N/A
Moldova, Rep. of			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Mongolia			46	40	N/A	N/A	-6	N/A
Morocco		Yes	48	48	N/A	N/A	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Mozambique	Yes	Yes	48 (36 white collar)	48	N/A	N/A	0	N/A
Myanmar	Yes		35 (public servants), 40 (other workers public enterprises) (Burma)	40, 48 (shift work)	7.6 per day (1981) (Burma)	7 per day (office staff), 8 per day (operation staff)	N/A	N/A
Namibia			N/A	45 (60 – security guards or guards)	N/A	40-45 (other than security guards)	N/A	N/A
Nepal			48 (factories)	48	N/A	N/A	0	N/A
Netherlands			48 (40 – collective agreements)	48	40.4 (1982)	38.6 (manufacturing, 2000)	0	N/A
New Zealand	Denounced	Denounced	40	40	38.7 (1982)	41.19 (2001)	0	+2.49
Nicaragua	Yes	Yes	48	48	N/A	47.27 (manufacturing, 2001)	0	N/A
Niger			40	40	N/A	N/A	0	N/A
Nigeria			40	40	N/A	40	0	N/A
Norway		Yes	40	40	36 (1982)	N/A	0	N/A
Oman			N/A	48	N/A	8 per day	N/A	N/A
Pakistan	Yes		48	48	N/A	N/A	0	N/A
Panama		Yes	48	48, 42 (night work), 45 (mixed schedule)	46 (manufacturing, 1979)	48	0	+2
Papua New Guinea			44	Not more than 12 hours per day (private sector), 36.75 hours (public sector), 73.5 hours per fortnight (shift hours of duty)	N/A	36.75	-7.25 (on national average)	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Paraguay	Yes	Yes	48	48	N/A	136 per month (manufacturing, 1999)	0	N/A
Peru	Yes		48	48	46.3 (1982, Lima)	49.28 (manufacturing, 2001)	0	N/A
Philippines			48 (private sector), 40 (government)	40	48.1 (1978)	6-7 hours per day	-8	N/A
Poland			46 (in practice, 42)	40	155 (per month, 1982)	43	-6	N/A
Portugal	Yes		48 (45 – collective agreements, 42 – offices)	40 (35 – public administration)	37.9 (1980)	35-40 (84% of full-time workers) (2000)	-8	N/A
Qatar			48	48	N/A	N/A	0	N/A
Romania	Yes		46	40	N/A	N/A	-6	N/A
Russian Federation			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	31.9 (mining, manufacturing, electricity, gas and water supply, 1999)	-1	N/A
Rwanda			45	40	N/A	N/A	-5	N/A
Saint Kitts and Nevis			N/A	N/A	N/A	N/A	N/A	N/A
Saint Lucia			41 (shops)	N/A	N/A	N/A	N/A	N/A
Saint Vincent and the Grenadines			N/A	8 per day	N/A	N/A	N/A	N/A
San Marino			48 (44 white collar)	48	N/A	42.1 (1999)	0	N/A
Sao Tome and Principe			48	45	N/A	N/A	-3	N/A
Saudi Arabia	Yes	Yes	48	48	N/A	N/A	0	N/A
Senegal			40	40	N/A	N/A	0	N/A
Serbia and Montenegro			42 (Yugoslavia)	40	184 (per month, 1982) (Yugoslavia)	N/A	-2	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Seychelles			45 (shops, engineering) 48 (hotels, etc.)	N/A	N/A	N/A	N/A	N/A
Sierra Leone			39-45	N/A	44 (1981)	N/A	N/A	N/A
Singapore			44	44	48.6 (1982)	46 (2004)	0	-2.6
Slovakia	Yes		46 (in practice – 42.5 maximum) (Czechoslovakia)	40	43.1 (manufacturing, 1982) (Czechoslovakia)	138 per month (2002)	-6	N/A
Slovenia			42 (Yugoslavia)	40	184 (per month, 1982) (Yugoslavia)	N/A	-2	N/A
Solomon Islands			N/A	45	N/A	N/A	N/A	N/A
Somalia			48	48	N/A	N/A	0	N/A
South Africa			N/A	45	N/A	45	N/A	N/A
Spain	Yes	Yes	40	40	40 (1982)	36 (manufacturing, 2002)	0	N/A
Sri Lanka			48	48 (45 – shops and offices)	50.1 (1982)	N/A	0	N/A
Sudan			48	48	N/A	N/A	0	N/A
Suriname			48	48	N/A	8 per day	0	N/A
Swaziland			48 (manufacturing and processing industries)	48 (manufacturing and processing industries)	N/A	N/A	0	N/A
Sweden			40	40	35.6 (1982)	35.7, 33.0 (women), 38.3 (men)	0	+0.1
Switzerland			45 (industrial and white collar), 50 (other), 40-45 (collective agreements)	45-50	44.1 (1982)	41.8 (industry), 41.9 (offices and commerce) (1994)	0	-2.3 (industry), -2.2 (offices and commerce)
Syrian Arab Republic	Yes	Yes	48	48	N/A	N/A	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Tajikistan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Tanzania, United Republic of			45	45	N/A	N/A	0	N/A
Thailand			48 (industry) 54 (commerce)	48, 42 (work that may be harmful to health and safety)	N/A	50 or more (39.6% of employed persons), 35-49 (45.9%)	0	N/A
The former Yugoslav Republic of Macedonia			42 (Yugoslavia)	40	184 (per month, 1982) (Yugoslavia)	N/A	-2	N/A
Timor-Leste, Dem. Rep. of			N/A	N/A	N/A	N/A	N/A	N/A
Togo			40	40	N/A	N/A	0	N/A
Trinidad and Tobago			48 (catering)	45 (shops)	N/A	N/A	N/A	N/A
Tunisia			40	48	N/A	40-48	+8	N/A
Turkey			48	45	N/A	N/A	-3	N/A
Turkmenistan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Uganda			48	48	N/A	N/A	0	N/A
Ukraine			41	40	N/A	134 per month (2001)	-1	N/A
United Arab Emirates	Yes		48	48	N/A	8-10 hours per day	0	N/A
United Kingdom			37.5-40 (collective agreements)	48 (on average)	42.9 (1982)	31.9 (in the three months to January 2004)	+10.5	-11
United States			40	40	34.8 (1982)	33.7 (production and non- supervisory workers on private non-farm payroll, 2003), 39.9 (all workers, 2003)	0	N/A
Uruguay	Yes	Yes	48 (44 – offices)	48 (44 – commerce)	N/A	41.8 (1999)	0	N/A

Country	Ratification of Convention No. 1	Ratification of Convention No. 30	Normal hours per week in 1984 <sup>2</sup>	Normal hours per week in 2004	Hours actually worked per week at the end of 1970s- beginning of 1980s	Hours actually worked per week at beginning of the twenty-first century	Change in normal hours	Change in hours actually worked
Uzbekistan			41 (USSR)	40	40.7 (manufacturing, 1981) (USSR)	N/A	-1	N/A
Vanuatu			N/A	44	N/A	N/A	N/A	N/A
Venezuela	Yes		48 (44 – white collar)	44	44.7 (1981)	N/A	-4	N/A
Viet Nam			N/A	48	N/A	48	N/A	N/A
Yemen			48	48	N/A	N/A	0	N/A
Zambia			48	48	N/A	N/A	0	N/A
Zimbabwe			44-48 (40 – public service)	Commercial sector: 48 (security services), 45 (all other employees); engineering sector: 40 (workers on day shift), 44 (workers on consecutive shift), 35 h 12 min (night shift)	N/A	Commercial sector: 45; engineering sector: 44 (day shift), 35 (night shift)	N/A	N/A

<sup>1</sup> This table was compiled on the basis of the information provided by governments or, where there was no report, on the basis of the 2003 Yearbook of Labour Statistics (62nd issue, ILO, Geneva, 2003). <sup>2</sup> See 1984 General Survey, pp. 55-60 (table 1). <sup>3</sup> N/A – information not available.

## Chapter III

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### Variable distribution of working hours

#### I. The concept and types of variable working-time arrangements

85. Arrangements for the variable distribution of working hours are methods of organizing working time which allow for its adjustment in accordance with variations in the volume of an undertaking's activities over a certain period, by extending hours over their normal length on certain days and shortening them on other days, so that the total length of working hours over the period does not exceed certain limits. On the one hand, the fluctuating nature of the production cycle may make such adjustments inevitable, while, on the other, possibilities for making such arrangements should not be unrestricted, otherwise limitations on the maximum number of daily working hours would lose all their protective effect. The balance is reflected in the provisions of Conventions Nos. 1 and 30 governing such arrangements. Both Conventions allow for the distribution of working hours within a week and over longer periods, including shift work, and for the making up of hours lost during a given period by exceeding the limit during another period. On the other hand, they place such distribution arrangements within certain limits by specifying the circumstances in which the irregular distribution of weekly hours is allowed, establishing limitations for the additional hours which may be worked and laying down the procedure for obtaining authorization for such distribution.

86. Both Conventions prescribe two different sets of requirements for arrangements for the distribution of working hours. One set of requirements regulates the distribution of working hours within a week, and the other regulates this distribution over a period longer than a week. Because of their differences, these sets of requirements are considered separately.

#### II. Variable distribution of working hours within a week

87. With regard to the distribution of working hours within a week, Convention No. 1 provides that:

... where by law, custom, or agreement between employers' and workers' organizations, or, where no such organizations exist, between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent public authority, or by agreement between such organisations or representatives; provided,

however, that in no case under the provisions of this paragraph shall the daily limit of eight hours be exceeded by more than one hour.<sup>1</sup>

Under Convention No. 30, the maximum hours of work in the week laid down in Article 3 (i.e. 48 hours) may be so arranged that hours of work in any day do not exceed ten hours.<sup>2</sup> Unlike Convention No. 1, Convention No. 30 does not prescribe any specific requirements with respect to the authorization procedure for any such arrangement.

88. National laws in a number of countries set statutory limits on the amount by which the daily limit of working hours may be exceeded, even though these limits are sometimes set at a quite high level. For example, in *Estonia*, the duration of a shift may be up to 12 hours.<sup>3</sup> In *Ethiopia*, the daily limits of hours of work may be exceeded by two hours to make up for the hours by which other days are shortened.<sup>4</sup> In *Germany*, according to the Government, daily working hours may be increased to a maximum of ten without any specific reason being given. Furthermore, if working hours regularly include a significant element of on-call or stand-by duty, they may be increased beyond ten hours on a temporary basis, if this is so provided in the collective agreement. The increase must be compensated for so as to achieve a daily average of eight hours over a period of six calendar months or 24 weeks, or over a longer period if the parties to the relevant collective agreement so agree.

89. Statutory limits on the amount by which the daily limit may be exceeded, sometimes in the form of the limitation of the maximum number of overtime hours which may be worked a day or a week exist also in *Algeria*,<sup>5</sup> *Bahrain*,<sup>6</sup> *Belarus*,<sup>7</sup> *Brazil*,<sup>8</sup> *Benin*,<sup>9</sup> *China*,<sup>10</sup> *Costa Rica*,<sup>11</sup> *Croatia*,<sup>12</sup> *Czech Republic*,<sup>13</sup> *El Salvador*,<sup>14</sup> *France*,<sup>15</sup> *Greece*,<sup>16</sup> *Honduras*,<sup>17</sup> *Hungary*,<sup>18</sup>

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<sup>1</sup> Article 2(b) of Convention No. 1.

<sup>2</sup> Article 4 of Convention No. 30.

<sup>3</sup> Section 15(1) of the Working and Rest Time Act.

<sup>4</sup> Section 63 of the Labour Proclamation.

<sup>5</sup> The total duration of daily work may not exceed 12 hours (section 7 of Act No. 97-03).

<sup>6</sup> The basic and extra hours of work may not exceed 60 hours a week (section 79 of the Labour Law for the Private Sector).

<sup>7</sup> Four hours within two consecutive days (section 122 of the Labour Code).

<sup>8</sup> Two hours a day (section 59 of the Consolidation of Labour Laws).

<sup>9</sup> The total duration of work must not exceed 12 hours a day and 60 hours a week (section 146 of the Labour Code; section 3 of Decree No. 98-368 concerning the hours of equivalence in enterprises governed by the Labour Code, of 4 September 1998).

<sup>10</sup> Three hours a day (section 41 of the Labour Law).

<sup>11</sup> The total duration of daily work must not exceed 12 hours (sections 136 and 140 of the Labour Code).

<sup>12</sup> Additional hours of work must not exceed ten hours per week (section 33 of the Labour Law).

<sup>13</sup> The total duration of daily work must not exceed 12 hours (section 90 of the Labour Code).

<sup>14</sup> One hour a day (section 170 of the Labour Code).

<sup>15</sup> The total duration of daily work must not exceed 12 hours (section D. 212-16 of the Labour Code).

<sup>16</sup> Additional hours of work must not exceed three hours a week (sections 1 and 2 of Act 2874/2000 on the arrangement of working time).

<sup>17</sup> The total duration of daily work must not exceed 12 hours (section 322 of the Labour Code).

<sup>18</sup> The total duration of daily work must not exceed 12 hours (sections 119(3), 127(4), 129(4) and 129(5) of the Labour Code).



*Indonesia,*<sup>19</sup> *Lithuania,*<sup>20</sup> *Mauritius,*<sup>21</sup> *Mexico,*<sup>22</sup> *Namibia,*<sup>23</sup> *Panama,*<sup>24</sup> *Poland,*<sup>25</sup> *Portugal,*<sup>26</sup> *Qatar,*<sup>27</sup> *Romania*<sup>28</sup> and *Tunisia.*<sup>29</sup>

90. In a number of countries, there are no direct statutory limits on the number of hours by which the daily limit may be exceeded. Nevertheless, indirect limits on this number may be imposed either through the regulation of overtime over a longer period (up to one year) or through the requirement of mandatory rest periods.

91. For example, in *Finland*, the maximum number of overtime hours during a four-month period is 138, although 250 hours must not be exceeded in a calendar year. An employer can agree on additional overtime with employee representatives or personnel or a personnel group together. The maximum amount of such additional overtime in a calendar year is 80 hours. Employer and employee organizations which operate nationwide can make exceptions to these limits (138 hours/4 months and 250 hours annually) by collective agreement. Such collectively agreed periods may not, however, exceed 12 months, and the maximum amount of annual overtime must comply with the statutory limit. Overtime is also restricted by the provisions of the Working Hours Act dealing with the periods of rest.<sup>30</sup> During the 24 hours following the beginning of a shift, employees must be accorded an uninterrupted rest period of at least 11 hours, and at least nine hours in case of period-based work, except in the case of exceptional regular working hours or stand-by time.<sup>31</sup> If the organization of work so requires, the employer and the workers' representatives may agree on temporarily shortened daily rest periods, with the consent of the worker. Daily rest periods may also be shortened when working hours are flexible and the employees themselves decide when their work begins and ends. The daily rest period must, however, be at least seven hours. If the organization of work or the nature of the operations so require, temporary derogations may be made from

<sup>19</sup> Additional hours must not exceed three hours a day and 14 hours a week (section 77(2) of Act No. 13/2003 concerning manpower).

<sup>20</sup> Not more than four hours in two consecutive days and 120 hours a year (section 152 of the Labour Code).

<sup>21</sup> According to the Government, the daily limit may be exceeded by one hour or, at most, two hours. Furthermore, no person may employ a young person or a female worker in an industrial undertaking for more than ten hours in a day (section 15 of the Labour Act).

<sup>22</sup> Three hours a day not more than three times a week (section 123(A)(XI) of the Political Constitution; section 66 of the Federal Labour Act).

<sup>23</sup> Three hours a day and ten hours during any week (section 32 of the Labour Act).

<sup>24</sup> Three hours a day and nine hours during any week (section 36(4) of the Labour Code).

<sup>25</sup> The total duration of daily work must not exceed 12 hours (section 135(1) of the Labour Code).

<sup>26</sup> The duration of daily work may be increased by collective agreement by up to four hours, and by agreement between the employer and worker by up to two hours. See sections 163(1), 164(1), 164(2), 165(1) and 165(3) of the Labour Code.

<sup>27</sup> The duration of daily work must not exceed ten hours. See section 36 of the Labour Law.

<sup>28</sup> The duration of daily work must not exceed ten hours (sections 112 and 113 of the Labour Code; section 10 of the National Collective Labour Agreement for 2003).

<sup>29</sup> The duration of daily work must not exceed ten hours (section 83 of the Labour Code).

<sup>30</sup> Section 29 of the Working Hours Act.

<sup>31</sup> Section 29(1) of the Working Hours Act. The term "period-based work" refers to the arrangement of the regular working hours so that they do not exceed 120 hours during a three-week period or 80 hours during a two-week period (section 7 of the Working Hours Act). The term "exceptional regular working hours" refers to the case of work which is carried out only from time to time within a 24-hour period during which the employee must be available for work (section 14 of the Working Hours Act).

these requirements covering no more than three consecutive daily rest periods: (i) when an employee's shift changes; (ii) if the work concerned is carried out in several periods within a day; (iii) if an employee's workplace and residence or other workplace are far apart; (iv) in order to clear an unexpected rush of seasonal work; (v) in connection with an accident, or risk thereof; (vi) in security and guard work requiring continuous presence to protect persons or property; and (vii) in work which is necessary for the continuity of operations.<sup>32</sup> A shortened daily rest period must, nevertheless, be no shorter than five hours. Employees must be granted rest time to compensate for their shorter daily rest periods as soon as possible, and within one month at the latest.<sup>33</sup>

92. Indirect limits on the number of hours by which the daily limit may be exceeded also exist in the *Central African Republic*,<sup>34</sup> *Grenada*,<sup>35</sup> *Latvia*,<sup>36</sup> *Oman*,<sup>37</sup> *Papua New Guinea*,<sup>38</sup> *Slovenia*<sup>39</sup> and *Sweden*.<sup>40</sup>

93. Finally, in certain countries there are no statutory limits, whether direct or indirect, on the number of hours by which the daily limit may be exceeded. No such limits have been prescribed in *Dominica*, *Fiji*,<sup>41</sup> *Japan*,<sup>42</sup> *Kenya*<sup>43</sup> or *South Africa*.<sup>44</sup>

### III. Variable distribution of working hours over a period longer than a week

#### A. Cases of averaging of hours of work

94. With regard to the variable distribution of working hours over a period longer than a week, both Conventions prescribe conditions for the averaging of hours of work in general, as well as specific conditions for averaging in two particular cases: (i) shift work; and (ii) the making up of hours of work lost during a given period by exceeding the limit during another period.

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<sup>32</sup> Section 29(2) of the Working Hours Act.

<sup>33</sup> Section 29(3) of the Working Hours Act.

<sup>34</sup> Section 127 of the Labour Code.

<sup>35</sup> Section 38 of the Employment Act.

<sup>36</sup> Section 143 of the Labour Code ("Weekly rest").

<sup>37</sup> Sections 69 and 71 of the Labour Code.

<sup>38</sup> Section 49 of the Employment Act.

<sup>39</sup> According to the Government, daily working time is indirectly limited by the duration of the daily rest period, both in case of the even and variable distribution of working time.

<sup>40</sup> Section 14 of the Working Hours Act (weekly rest).

<sup>41</sup> In *Fiji*, the number of hours by which the daily limit may be exceeded depends on the urgency of the work.

<sup>42</sup> The limit on the daily hours is not fixed and is left to an agreement between an employer and workers. Section 36 of the Labour Standards Law.

<sup>43</sup> In *Kenya*, each enterprise determines daily limits, which may be exceeded.

<sup>44</sup> Even though the Basic Conditions of Employment Act does not place a daily limit on overtime, such limits are prescribed by sectoral determinations and collective agreements.

## B. Averaging of hours of work in general

95. While allowing for the averaging of hours of work in general, neither Convention No. 1 nor Convention No. 30 prescribes a specific period over which hours of work may be averaged.<sup>45</sup> Under Convention No. 1, in exceptional cases, “where it is recognized that the provisions of Article 2 cannot be applied, but only in such cases, agreements between workers’ and employers’ organizations concerning the daily limit of work over a longer period of time may be given the force of regulations, if the Government to which these agreements shall be submitted, so decides”.<sup>46</sup> The average number of hours worked per week, over the number of weeks covered by any such agreement must not exceed 48.<sup>47</sup> Under Convention No. 30, in “exceptional cases where the circumstances in which the work has to be carried on make the provisions of Articles 3 and 4 of this Convention inapplicable, regulations made by public authority may permit hours of work to be distributed over a period longer than the week, provided that the average hours of work over the number of weeks included in the period do not exceed 48 hours in the week and that hours of work in any day do not exceed ten hours”.<sup>48</sup> These regulations have to be made after consultation with the workers’ and employers’ organizations concerned, with special regard being paid to any collective agreements existing between such workers’ and employers’ organizations.<sup>49</sup>

96. There are several differences between the rule concerning the averaging of hours of work prescribed by Convention No. 1 and the respective rule in Convention No. 30. While Convention No. 1 provides for the transformation into regulations of the provisions contained in agreements concluded between employers’ and workers’ organizations or their representatives,<sup>50</sup> Convention No. 30 does not require such transformation, but instead provides for the making of such regulations by the public authority after consultation with the workers’ and employers’ organizations concerned. Moreover, while the averaging of working hours for more than ten hours a day is not allowed by Convention No. 30, no similar limitation is imposed by Convention No. 1.

97. Under existing national laws and practices, the variable distribution of working hours averaged over a period of more than a week is normally allowed. For example, in *Estonia*, the Working and Rest Time Act does not prohibit the distribution of working hours averaged over periods of more than a week. Furthermore, there are no statutory restrictions on the period over which hours of work may be averaged. If the recording period is longer than four months, an employer is required to obtain approval from the

<sup>45</sup> In response to the request for clarification as to whether the number of weeks covered by an agreement between workers’ and employers’ organizations might extend over the entire year, the ILO stated in an interpretation that nothing in Convention No. 1 indicates the length of the period over which the agreement should operate. However desirable it may appear that this period should be reduced to the absolute minimum possible, Article 5 gives to the respective country all the necessary facilities. It would be necessary, in approving the agreement referred to in this Article, that the Government should define with precision in each case the length of the working day. See ILC: “Interpretation of a decision concerning the Hours of Work (Industry) Convention, 1919 (No. 1)”, ILO, *Official Bulletin*, Vol. III, No. 13, pp. 387-392 (1921). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

<sup>46</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>47</sup> Article 5, paragraph 2, of Convention No. 1.

<sup>48</sup> Article 6 of Convention No. 30.

<sup>49</sup> Article 8 of Convention No. 30.

<sup>50</sup> The agreement between workers’ and employers’ organizations is a condition sine qua non of the application of this Article. See *International Labour Code*, Vol. 1, article 240, footnote 204 (p. 204) (ILO, Geneva, 1952).

labour inspector at the location (residence) of the employer for the conditions for the totalling of working time.<sup>51</sup> The period of time over which the standard working time determined by the Working and Rest Time Act, other legislation, the employment contract or collective agreement is averaged is to be determined by internal work rules, collective agreement or employment contract.<sup>52</sup> The duration of a shift may be up to 12 hours. Longer shifts, which may last up to 24 hours, may be organized for guards and security guards, health-care professionals and welfare workers, fire and rescue workers, with the agreement of the labour inspector at the location (residence) of the employer on condition that the employee is granted compensatory rest time.<sup>53</sup>

98. In *Finland*, when regular working time is arranged through an averaging system, the system must be prepared in advance for the work in question, at least for the period of time required for the regular working hours to average out at the set limit.<sup>54</sup> Collective agreements may establish different requirements as to the length of the averaging period. In most agreements, this period varies between four and 52 weeks. In cases where working hours are averaged over such periods, the regular working hours may not exceed 120 hours within a three-week period or 80 hours in a two-week period. With a view to organizing work in a practicable way or to avoid shifts that are impractical for employees, regular working hours can be arranged so that they do not exceed 240 hours during two consecutive three-week or three consecutive two-week periods. Regular working hours must not exceed 128 hours during either of these three-week periods or 88 hours during any of the two-week periods. Furthermore, under the Working Hours Act, unless otherwise provided by collective agreement, an employer and an employee can only agree to extend regular daily working hours by a maximum of one hour. However, in such cases average regular weekly working hours may not exceed 40 hours during a period of not more than four weeks, and total weekly working hours may not exceed 45 hours.<sup>55</sup> With regard to the limitation of daily working time by statutory provisions respecting rest periods, if the working hours exceed six hours per day and the employee's presence at the workplace is not necessitated by the work continuity of the week, the employee must be granted a regular rest period of at least one hour within the shift. The employer and the employee may also agree on a shorter rest period, which may not be less than half an hour. The rest period cannot be placed immediately at the beginning or the end of the working day. If daily working hours exceed ten, employees are entitled to a rest period of up to half an hour following eight hours of work.<sup>56</sup>

99. In *Norway*, under the Working Environment Act, by written agreement, ordinary working hours may be averaged over a period not exceeding one year, provided that the working hours do not exceed 48 hours in any one week.<sup>57</sup> Daily working hours must not exceed nine hours. In agriculture, an agreement on the calculation of average working hours may be concluded orally, provided that none of the parties demand a written

<sup>51</sup> Section 14(4) of the Working and Rest Time Act.

<sup>52</sup> Section 14(2) of the Working and Rest Time Act.

<sup>53</sup> Section 15(3) of the Working and Rest Time Act.

<sup>54</sup> Section 34(1) of the Working Hours Act.

<sup>55</sup> Section 12 of the Working Hours Act.

<sup>56</sup> Section 29(1) of the Working Hours Act.

<sup>57</sup> Section 46 of the Working Environment Act.

agreement.<sup>58</sup> The agreement must stipulate or provide a basis for employees to calculate the weeks of the year during which working hours will be longer or shorter than those prescribed by section 46 of the Act, unless this is to be decided by the individual employee (flexible working hours, etc.).<sup>59</sup> Nevertheless, the Working Environment Act empowers the King to authorize hours of work other than those prescribed by the Act where the work is of a special nature.<sup>60</sup> No agreement between the organizations of the parties is required. Furthermore, under the Act, certain trade unions<sup>61</sup> may conclude collective pay agreements relating to the arrangement of ordinary working hours, notwithstanding the rules laid down in Chapter X “Working hours” of the Act.<sup>62</sup> The Government emphasizes that such agreements do not require the approval of the public authorities, unless the employer also wishes them to apply to unorganized staff. The Government also points out that the Working Environment Act contains rules governing the calculation by agreement of working time on an average basis without the Government’s approval being considered necessary<sup>63</sup> and rules empowering the Labour Inspection Authority to permit working hours to be calculated on an average basis without the existence of an agreement between the parties.<sup>64</sup> In the Government’s view, these provisions do not correspond to the requirements of Article 5 of Convention No. 1.

100. The variable distribution of working hours averaged over periods of more than a week is also permitted by law in *Algeria*,<sup>65</sup> *Belarus*,<sup>66</sup> *Benin*,<sup>67</sup> *Brazil*,<sup>68</sup> *China*,<sup>69</sup> *Côte d’Ivoire*,<sup>70</sup> *Croatia*,<sup>71</sup> *Czech Republic*,<sup>72</sup> *El Salvador*,<sup>73</sup> *Ethiopia*,<sup>74</sup> *France*,<sup>75</sup> *Greece*,<sup>76</sup> *Honduras*,<sup>77</sup> *Hungary*,<sup>78</sup>

<sup>58</sup> Section 47(1), para. 1, of the Working Environment Act.

<sup>59</sup> Section 47(2), para. 2, of the Working Environment Act.

<sup>60</sup> Section 2(3) of the Working Environment Act.

<sup>61</sup> Those trade unions which are entitled to submit recommendations pursuant to section 11(1) of Act No. 1 of 5 May 1927 respecting labour disputes or the first paragraph of section 25(2) of the Act respecting the civil service. See section 41(5) of the Working Environment Act.

<sup>62</sup> Section 41(5) of the Working Environment Act.

<sup>63</sup> Section 47(2) of the Working Environment Act.

<sup>64</sup> Section 47(3) of the Working Environment Act.

<sup>65</sup> Sections 2 and 5 of Act No. 97-03; section 94-4 of Act No. 90-11.

<sup>66</sup> Section 126 of the Labour Code.

<sup>67</sup> Section 146 of the Labour Code.

<sup>68</sup> Section 61 of the Consolidation of Labour Laws.

<sup>69</sup> Regulations of the Ministry of Labour and Social Security on the approval of variable hours of work and consolidated hours of work in enterprises, of 14 December 1994.

<sup>70</sup> Sections 3, 4 and 7 of Decree No. 96-203 respecting working time, of 7 March 1996.

<sup>71</sup> Section 35 of the Labour Law.

<sup>72</sup> Section 85 of the Labour Code.

<sup>73</sup> Sections 161-170 of the Labour Code.

<sup>74</sup> Section 64 of the Labour Proclamation.

<sup>75</sup> Act No. 2000-37 of 19 January 2000 respecting the negotiated reduction of working hours. Available at: <http://www.legifrance.gouv.fr/>.

<sup>76</sup> Section 5 of Act 2874/2000 on the arrangement of working time.

<sup>77</sup> Sections 326, 332-334 of the Labour Code.

<sup>78</sup> Sections 118 and 118/A of the Labour Code.

*Indonesia,*<sup>79</sup> *Japan,*<sup>80</sup> *Jordan,*<sup>81</sup> *Latvia,*<sup>82</sup> *Lithuania,*<sup>83</sup> *Madagascar,*<sup>84</sup> *Malaysia,*<sup>85</sup> *Malta,*<sup>86</sup> *Mexico,*<sup>87</sup> *Namibia,*<sup>88</sup> *Nigeria,*<sup>89</sup> *Poland,*<sup>90</sup> *Portugal,*<sup>91</sup> *Qatar,*<sup>92</sup> *Slovenia,*<sup>93</sup> *South Africa,*<sup>94</sup> *Sweden*<sup>95</sup> and *Tunisia.*<sup>96</sup>

101. Nevertheless, in a number of countries, according to the reports received, the averaging of hours of work is not allowed. This is the case in *Fiji,*<sup>97</sup> *Panama* and *Thailand.*<sup>98</sup>

102. Finally, in a number of countries, there are no statutory provisions dealing with the variable distribution of working hours averaged over periods of more than a week. This is the case in *Costa Rica, Dominica, Kenya, Mauritius,*<sup>99</sup> *Papua New Guinea, Suriname* and *Zimbabwe.*

### C. Averaging hours of work in the case of shift work

103. Shift work is usually defined as a method of organizing working time through which workers succeed one another at the workplace so that the operating hours of the undertaking exceed the hours of work of individual workers.<sup>100</sup> Convention No. 1

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<sup>79</sup> Section 2(1) of Decree (*Kepmenakertrans*) No. 234/MEN/2003 concerning working hours and rest hours at the energy and mining sources.

<sup>80</sup> Section 32 of the Labour Standards Law; sections 6 and 7 of the Working Hours Law.

<sup>81</sup> Sections 56 and 57 of the Labour Code.

<sup>82</sup> Section 140 of the Labour Code.

<sup>83</sup> Section 149 of the Labour Code.

<sup>84</sup> Decree No. 68-172 of the Council of Ministers regulating additional hours of work and establishing increased pay for night work, work on Sundays and on holidays, of 18 April 1968 (as amended by Decree No. 72-226 of 6 July 1972). *Journal officiel*, No. 588, of 4 May 1968, p. 886; No. 147, dated 15 July 1972, p. 1465. Available at: <http://droit.francophonie.org/doc/html/mg/loi/1968dfmg119.html>.

<sup>85</sup> Section 60C of the Employment Act of 1955.

<sup>86</sup> Section 7(1) of the Organization of Working Time Regulations.

<sup>87</sup> Sections 63-73 and 215-245 of the Federal Labour Act.

<sup>88</sup> According to the Government, ministerial policy provides for a specific period of one year as the maximum period for the averaging of working hours.

<sup>89</sup> Section 13(3) of the Labour Act; section 22014 of the Public Service Rules; Circular No. B 624-42/XIII/646 of the Federal Ministry of Establishment concerning hours of work for civil servants, of 7 April 1976.

<sup>90</sup> Sections 132-137 of the Labour Code.

<sup>91</sup> Section 169(1) of the Labour Code.

<sup>92</sup> Sections 35-37 of the Labour Law.

<sup>93</sup> Sections 147 and 155-158 of the Employment Act.

<sup>94</sup> Section 12 of the Basic Conditions of Employment Act.

<sup>95</sup> Section 5(2) of the Working Hours Act.

<sup>96</sup> Section 79 of the Labour Code.

<sup>97</sup> In *Fiji*, neither Wage Regulation Orders (WRO) issued by the Wage Councils nor any other legislation permits the averaging of the hours worked.

<sup>98</sup> The Government indicates that a number of exceptions for certain undertakings (for example, undertakings engaged in petroleum operations) and for work on holidays have been authorized by ministerial regulations.

<sup>99</sup> With the exception of the Nursing Home (Remuneration Order) Regulations of 1984, which prescribe a maximum limit of 195 hours of work a month.

<sup>100</sup> See ILO, *Conditions of Work Digest: Working time around the world*, Vol. 14 (1995), p. 13.

prescribes separate requirements for the averaging of hours of work in the case of shift work in general,<sup>101</sup> and for processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts (“shift work in necessarily continuous processes”),<sup>102</sup> whereas Convention No. 30 does not prescribe any specific requirements for averaging of hours in the case of shift work.

104. In the case of shift work in general, Convention No. 1 allows work to be performed in excess of eight hours in one day and 48 hours in any one week, if the average number of hours over a period of three weeks or less does not exceed eight per day and 48 per week.<sup>103</sup>

105. In the case of shift work in necessarily continuous processes, Convention No. 1 permits the limit of hours of work prescribed in Article 2 to be exceeded, subject to the condition that the working hours do not exceed 56 in the week on average.<sup>104</sup> Such regulation of the hours of work must in no case affect any rest days which may be secured by the national law to the workers in such processes in compensation for the weekly rest day.<sup>105</sup>

106. There are significant differences between provisions relating to the averaging of hours of work in the case of shift work in general contained in Article 2(c) of Convention No. 1 and those of Article 4 of Convention No. 1 relating to the averaging in case of shift work in necessarily continuous processes. Article 4 applies specifically to processes which are necessarily continuous for technical reasons, while Article 2(c) applies to cases in which the organization of the work in shifts is not based upon the necessary technical continuity of the processes, but upon such other considerations as the economic advantage of running machinery for a longer period and the consequent reduction of overhead charges. In these cases the effect of the exception is to allow greater elasticity in the changing of shifts, without increasing the working hours averaged over a period of three weeks or less.<sup>106</sup>

107. Under Convention No. 1, the possibility of making use of this weekly limit of 56 hours in case of shift work in necessarily continuous processes depends only on the “nature of the process”, and is not subject to the formalities required by Article 5 of this Convention for “exceptional cases” (transformation into regulations of the provisions contained in agreements concluded between the organizations concerned).<sup>107</sup> Under

<sup>101</sup> Article 2(c) of Convention No. 1.

<sup>102</sup> Article 4 of Convention No. 1. For the purposes of Convention No. 1, the term “necessarily continuous process” covers work in which the technical processes have to be carried on without interruption day and night (such as blast furnaces, coke manufacture, the refining of mineral oils, certain branches or operations in the chemical industry, cement manufacture, salt making, mining) or have to be kept going seven days a week due to the perishable nature of the product in question (such as dairy products in general), as well as public utility services (water, gas, electricity). See *International Labour Code*, Vol. 1, article 239, footnote 202 (Geneva, 1952); 1967 General Survey, para. 157, note 1 (p. 229).

<sup>103</sup> Article 2(c) of Convention No. 1.

<sup>104</sup> Article 4 of Convention No. 1.

<sup>105</sup> *idem*.

<sup>106</sup> ILC: “Interpretation of a decision concerning the Hours of Work (Industry) Convention, 1919 (No. 1)”, ILO, *Official Bulletin*, Vol. III, No. 14, pp. 409-413 (1921). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

<sup>107</sup> ILC: “Interpretation of a decision concerning the Hours of Work (Industry) Convention, 1919 (No. 1)”, ILO, *Official Bulletin*, Vol. XXXV, No. 4, pp. 345-346 (1952). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

Article 4 of the Convention, no such agreements between employers and workers' organizations are required, and it is therefore left to the governments concerned to decide the processes to which the exception allowed by Article 4 of Convention No. 1 is applicable.<sup>108</sup> This decision, however, is subject to the supervision of the ILO, since every government, in accordance with Article 7 of the Convention, must communicate in its annual reports a list of processes which are classed as being necessarily continuous in character.<sup>109</sup>

108. With regard to national law and practice, shift work arrangements are governed by statutory provisions in a number of countries. For example, in *Finland*, under the Working Hours Act, shifts must change regularly and at intervals agreed upon in advance. Changes are considered regular when a shift does not coincide for more than an hour with the shift immediately following it or shifts are no more than an hour apart.<sup>110</sup> In *Germany*, according to the Government, hours of work of night and shift workers have to be determined in accordance with current knowledge regarding healthy working arrangements. For night workers, daily working hours must not, as a rule, exceed eight hours. They may be increased to a maximum of ten hours only if the average daily working hours over a period of one calendar month or four weeks do not exceed eight hours. In the absence of any specific provisions in a collective agreement, workers are entitled to an appropriate number of paid rest days in compensation for hours of night work or an appropriate night work supplement in addition to their normal gross wages.

109. Shift work arrangements are also governed by statutory provisions in *Belarus*,<sup>111</sup> *Brazil*,<sup>112</sup> *Côte d'Ivoire*,<sup>113</sup> *Croatia*,<sup>114</sup> *Czech Republic*,<sup>115</sup> *El Salvador*,<sup>116</sup> *Estonia*,<sup>117</sup> *France*,<sup>118</sup> *Greece*,<sup>119</sup> *Hungary*,<sup>120</sup> *Japan*,<sup>121</sup> *Jordan*,<sup>122</sup> *Latvia*,<sup>123</sup> *Lithuania*,<sup>124</sup>

<sup>108</sup> *idem*, p. 346.

<sup>109</sup> *idem*.

<sup>110</sup> Section 27 of the Working Hours Act.

<sup>111</sup> Section 125 of the Labour Code.

<sup>112</sup> Section 7(xiv) of the Constitution; Act No. 605 of 5 January 1949; Act No. 10,101 of 19 December 2000; Decree No. 27,048 of 12 August 1949; Order No. 509/67 of the Ministry of Labour and Employment.

<sup>113</sup> Section 10 of Decree No. 96-203 regarding working time, of 7 March 1996.

<sup>114</sup> Section 51(2) of the Labour Law.

<sup>115</sup> Sections 83(2) and 87 of the Labour Code.

<sup>116</sup> Sections 302 – 306 of the Labour Code.

<sup>117</sup> Section 15 of the Working and Rest Time Act.

<sup>118</sup> Sections L 220-2; L 221-14, L 231-2, L 231-3 of the Labour Code; section 26 of Ordinance No. 82-41, dated 16 January 1982. Available at: <http://www.legifrance.gouv.fr/>.

<sup>119</sup> Section 16(5) of Act 2874/2000 on the arrangement of working time. See also, section 40(1) of Act 1892/1990. *Official Gazette*, 101/A/31-7-90; section 2(5) of Presidential Decree 88/99. *Official Gazette*, 94/A/13-5-1999.

<sup>120</sup> Sections 117(1), 118(2), 119(3), 123(2), 124(5), 124(6), 124/A and 146 of the Labour Code.

<sup>121</sup> Section 32 of the Labour Standards Law.

<sup>122</sup> Section 55 of the Labour Code.

<sup>123</sup> Section 139 of the Labour Code.

<sup>124</sup> Section 147 of the Labour Code.



*Madagascar,*<sup>125</sup> *Malaysia,*<sup>126</sup> *Mauritius,*<sup>127</sup> *Mexico,*<sup>128</sup> *Namibia,*<sup>129</sup> *Nigeria,*<sup>130</sup> *Papua New Guinea,*<sup>131</sup> *Poland,*<sup>132</sup> *Portugal,*<sup>133</sup> *Qatar,*<sup>134</sup> *Slovenia*<sup>135</sup> and the *United Arab Emirates.*<sup>136</sup>

110. On the other hand, in a number of countries there are no specific statutory provisions governing shift work. This is the case in *Bahrain, Benin, China,*<sup>137</sup> *Costa Rica, Dominica, Ethiopia,*<sup>138</sup> *Fiji,*<sup>139</sup> *Honduras, Indonesia,*<sup>140</sup> *Kenya, Panama, South Africa,*<sup>141</sup> *Sweden, Thailand* and *Viet Nam.*

#### D. Averaging hours of work in the case of making up of hours of work lost during a given period

111. The making up of hours of work which have been lost means compensating for the loss of hours of work during a certain period by exceeding the limit during another period. While Convention No. 30 sets out particular requirements with respect to the averaging of hours in such cases,<sup>142</sup> Convention No. 1 does not specifically address this issue. Under Convention No. 30, in the case of:

... a general interruption of work due to (a) local holidays, or (b) accidents or *force majeure* (accidents to plant, interruption of power, light, heating or water, or occurrences causing serious material damage to the establishments), hours of work in the day may be increased

<sup>125</sup> Order No. 1857-IGT respecting working hours in public works enterprises, of 23 September 1953; Order No. 1127-IGT respecting working hours in the textile industry, of 1 June 1954.

<sup>126</sup> Section 60C of the Employment Act of 1955.

<sup>127</sup> Sections 2 and 15 of the Labour Act.

<sup>128</sup> Section 123(A)(I) of the Political Constitution; sections 60 and 61 of the Federal Labour Act.

<sup>129</sup> Section 28 of the Labour Act.

<sup>130</sup> Section 17613 of the Public Service Rules.

<sup>131</sup> Section 49 and section 50(2) of the Employment Act; subsections 13.58 and 13.59 of section C of the National General Orders.

<sup>132</sup> Section 146 of the Labour Code.

<sup>133</sup> Sections 188-190 of the Labour Code; section 20(2) of Legislative Decree No. 259/98 of 18 August 1998 (shift work in the public administration).

<sup>134</sup> Section 35 of the Labour Law.

<sup>135</sup> Sections 149-152 of the Employment Act.

<sup>136</sup> Ministerial Order No. 49/1 of 1980 determining activities which require continuous non-stop work and regulating methods of granting workers periods for resting, eating and praying.

<sup>137</sup> According to the Government, enterprises wishing to adopt the system of working by shifts are not required to apply for approval by the competent authorities, provided that the hours of work meet the general requirements relating to hours of work prescribed by the Labour Law.

<sup>138</sup> In *Ethiopia*, as pointed out by the Government, since the Labour Proclamation does not prohibit shift work, what is not prohibited is considered as being allowed. The daily hours of work fixed by the Proclamation are eight hours.

<sup>139</sup> In *Fiji*, shift work may be agreed upon in collective agreements.

<sup>140</sup> According to the Government, the general rules prescribed by section 77(2) of Act No. 13/2003 concerning manpower have to be applied.

<sup>141</sup> According to the Government, even though the Basic Conditions of Employment Act does not explicitly provide for shift work, the necessary flexibility for such work is provided by section 12 of the Act dealing with the averaging of hours of work.

<sup>142</sup> Article 5 of Convention No. 30.

for the purpose of making up the hours of work which have been lost, provided that the following conditions are complied with:

- (a) hours of work which have been lost shall not be allowed to be made up on more than thirty days in the year and shall be made up within a reasonable lapse of time;
- (b) the increase in hours of work in the day shall not exceed one hour;
- (c) hours of work in the day shall not exceed ten.<sup>143</sup>

The Convention also requires the competent authority to be notified of the nature, cause and date of the general interruption of work, of the number of hours of work which have been lost, and of the temporary alterations provided for in the working timetable.<sup>144</sup>

112. The national legislation of a number of countries includes extensive statutory regulations respecting the making up of hours lost during a given period by exceeding the limit during another period. For example, in *Germany*, under the Civil Code (BGB), workers have to be released from their work obligations during a given period if work is impossible, resulting in working time being lost.<sup>145</sup> If neither the employer nor the worker is responsible for the loss of working time, the employee ceases to be entitled to any remuneration for the hours lost.<sup>146</sup> The same rule applies if the worker can no longer be reasonably expected to do the work.<sup>147</sup> Within this general legal framework, the worker may in exceptional cases be obliged to work extra hours to make up for lost hours if she or he is responsible for the lost time or if there is an agreement (collective, works or employment contract) that provides for such extra hours (for example, in the form of flexible working-time arrangements, working-time accounts). Circumstances that result in the loss of working hours (and consequently the release of the worker from work obligations) may include subjective impediments related to the worker's private life (such as illness or the illness of a child), or objective impediments (such as heavy snowfalls or icy conditions) which prevent the worker from getting to work. In certain cases, the employer bears the consequences of the loss of working hours.<sup>148</sup> The worker remains entitled to remuneration without being obliged to make up the lost hours if she or he is prevented for personal reasons from working for a relatively short time.<sup>149</sup> The worker also remains entitled to remuneration for work in cases in which the employer bears the consequences of the loss of working hours, unless the worker is responsible for the lost time or the factors giving rise to the disruption affect the enterprise so severely that the payment of wages would jeopardize the existence of the enterprise. If it is necessary to make up for lost hours of work as a result of such conditions, the limits set by the Hours of Work Act must still be respected. The making up of lost working time must not result in contraventions of the provisions regarding permissible working hours. There are no other specific legal conditions respecting the making up of lost hours of

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<sup>143</sup> Article 5, paragraph 1, of Convention No. 30.

<sup>144</sup> Article 5, paragraph 2, of Convention No. 30.

<sup>145</sup> Section 275 Nr. 1 BGB.

<sup>146</sup> Section 326 Nr. 1 BGB.

<sup>147</sup> Section 275 Nr. 3 BGB; section 326 Nr. 1 BGB.

<sup>148</sup> Section 615 Nr. 3 BGB. The Government points out that, in accordance with the relevant jurisprudence, these are the cases when: (i) work is not possible for operational reasons (operational hazards); (ii) the reasons for the lost time lie outside rather than inside the operational sphere, but make an impact on it, constituting *force majeure* for the employer (such as floods, fires, etc.); (iii) work is no longer economically viable for the employer as a result of deteriorating economic conditions, lack of orders or shortage of funds (economic hazard).

<sup>149</sup> Section 616 BGB.

work, and no official authorization is required. The level of remuneration is set by agreement between the parties to the employment contract.<sup>150</sup> Where there are relevant provisions in collective agreements, the employer is required to pay not less than the agreed level of wages. If the employer and workers have not reached any agreement on the amount to be paid and there are no applicable collective agreements, the usual wages paid in practice are deemed as having been agreed upon.<sup>151</sup>

113. The making up of hours of work lost during a given period is governed by statutory provisions, in some cases supplemented by collective agreements, also in *Benin*,<sup>152</sup> *Côte d'Ivoire*,<sup>153</sup> *Ecuador*,<sup>154</sup> *France*,<sup>155</sup> *Lithuania*,<sup>156</sup> *Papua New Guinea*,<sup>157</sup> *Poland*,<sup>158</sup> *Romania*,<sup>159</sup> *Slovenia*,<sup>160</sup> *Sweden*<sup>161</sup> and *Tunisia*.<sup>162</sup>

114. In a number of countries, the making up of hours of work lost during a given period by exceeding the limit during another period is not allowed due to either a direct or indirect statutory prohibition in the national legislation. For example, in *Estonia*, according to the Government, under the Working and Rest Time Act it is prohibited to make up hours of work during a given period by exceeding the limit during another period. In *Finland*, the averaging of working hours during consecutive periods is not possible as a rule, because working hours have to be averaged over a specified period. The employer must pay additional remuneration for overtime, and the working hours deficit constitutes a loss for the employer, unless is caused by the employee (for example, as a result of an unauthorized absence). Nevertheless, under the Employment Contracts Act, if the employee is prevented from working by an exceptional natural event or another similar event affecting the workplace which is beyond the employers' control, the employee is entitled to be paid for the period of the impediment, although not for more than a maximum of 14 days. If the impediment that is beyond the control of the parties to the employment contract is caused by industrial action by other employees, which is independent of the employee's employment terms or working conditions, the employee is nevertheless entitled to be paid for a maximum of seven days.<sup>163</sup>

<sup>150</sup> Section 105 of Industrial Code. *Gewerbeordnung in der Fassung der Bekanntmachung vom 01.01.1987, zuletzt geändert durch Gesetz vom 05.10.1994*, BGBl I S. 2911.

<sup>151</sup> Section 612 BGB.

<sup>152</sup> Sections 3, 4, 6 and 7 of Order No. 029/MFPTRA/DC/SGM/DGT/SRT of the Ministry of Public Administration, Labour and Administrative Reform issuing rules relating to the recovery of hours of work, of 21 January 2004.

<sup>153</sup> Section 18(a) of Decree No. 96-203 respecting working time, of 7 March 1996.

<sup>154</sup> In *Ecuador*, the making up of hours of work lost is regulated by Presidential Decree in a variety of cases (for example, hours of work lost during the Carnival).

<sup>155</sup> Sections L 212-2-2, L 212-8, L 212-9 and L 222-1-1 of the Labour Code.

<sup>156</sup> Sections 122 and 195 of the Labour Code.

<sup>157</sup> Sections 52 and 56 of the Employment Act.

<sup>158</sup> Section 150 of the Labour Code.

<sup>159</sup> Section 111 of the Labour Code; sections 10(1)-10(5) of the National Collective Labour Agreement for 2003.

<sup>160</sup> Sections 147, 155-158 of the Employment Act.

<sup>161</sup> Section 9 of the Working Hours Act.

<sup>162</sup> Sections 92, 93 and 100 of the Labour Code.

<sup>163</sup> Section 12(2) of the Employment Contracts Act (55/2001).

115. The making up of hours of work lost during a given period by exceeding the limit during another period is also not allowed in *Costa Rica, El Salvador, Japan*,<sup>164</sup> *Mexico, Namibia, Panama* and the *Philippines*.<sup>165</sup>

116. Finally, in a number of countries, the legislation does not specifically address the issue of the making up of lost hours of work. This is the case in *Belarus, Central African Republic, China*,<sup>166</sup> *Croatia, Czech Republic, Dominica, Ethiopia, Fiji*,<sup>167</sup> *Greece, Honduras, Hungary, Indonesia, Jordan, Kenya, Malaysia, Malta*,<sup>168</sup> *Mauritius, Nigeria, Portugal*,<sup>169</sup> *Qatar, South Africa* and *Thailand*.<sup>170</sup>

#### IV. Concluding comments

117. Analysis of the information received shows that in a large number of cases there are significant differences between national laws or practices dealing with the issue of the variable distribution of working hours and the respective provisions of the Conventions. First, in many cases, national legislation or practice does not prescribe limits on the number of hours by which the daily limit may be exceeded. Second, even where such limits have been established, they often do not exist in the form of the strict one-hour limit prescribed by Convention No. 1. National law and practice tends to regulate this issue by means of indirect limits, either through the regulation of overtime over a longer period (up to one year), or through the prescription of mandatory rest periods.

118. Finally, with regard to the regulation of shift work in industrial undertakings, the reference period not exceeding three weeks for the averaging of hours of work prescribed by Convention No. 1 allows far less flexibility than the longer periods of up to one year prescribed by national laws or regulations for these types of arrangements.<sup>171</sup>

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<sup>164</sup> According to the Government, except for the variable working hours system, there is no system in place in *Japan* for the making up of hours of work lost during a given period by exceeding the limit during another period.

<sup>165</sup> Section 88 of the Labour Code.

<sup>166</sup> According to the Government, there is no special provision in the legislation of *China* governing the issue of the making up of hours of work lost, and the general rules respecting on the hours of work prescribed by the Labour Law have to be applied.

<sup>167</sup> According to the Government, the making up of hours of work lost during a given period is not practised in *Fiji*.

<sup>168</sup> According to the Government, the action taken in the case of accidents or *force majeure* is at the discretion of the management or as stipulated in the applicable collective agreement.

<sup>169</sup> The Government indicates that, in accordance with section 155 of the Labour Code, working time is considered to be the period during which the worker is available to the employer, irrespective of whether she or he is performing the work for which she or he was hired.

<sup>170</sup> According to the Government, in cases where the employer requires the employee to work to make up the lost hours of work, this is deemed to be overtime work or work on days off, as the case may be. In such cases, the employer has to pay remuneration at the overtime rate.

<sup>171</sup> ILO, GB.258/ESP/6/6, para. 92.

## Chapter IV

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### Exceptions

#### I. Concept and types of “exceptions”

119. Both Convention No. 1 and Convention No. 30 provide for a certain number of exceptions from the principle of the eight-hour day and the 48-hour week. They allow employers to make adjustments to working hours in accordance with variations in the activities of the undertaking over a certain period by carrying out work outside the normal limits of working hours laid down for the undertaking. In the same way as for the distribution of working hours, the provisions of Conventions Nos. 1 and 30 related to exceptions also reflect the necessity to achieve a balance between the needs of employers and the interests of workers under which employers can make adjustments to the timetable and workers are provided with certain safeguards.<sup>1</sup> While authorizing exceptions from the normal hours of work, both Conventions therefore at the same time specifically define circumstances in which these exceptions may be made, the procedure for the determination of the maximum number of additional hours that may be worked and the amount of overtime pay due. They also establish requirements with respect to the authorization of such extensions of working hours.

120. Both Conventions refer to two types of exceptions: (i) permanent exceptions;<sup>2</sup> and (ii) temporary or periodical exceptions.<sup>3</sup>

121. *Permanent exceptions* may be defined as exceptions in cases in which work has necessarily and regularly to be carried out outside normal hours to address the permanent necessities of an undertaking and the exact moment when such work has to be performed can be foreseen. Under both Conventions, these exceptions may be permitted in cases of intermittent work,<sup>4</sup> and preparatory or complementary work.<sup>5</sup> In addition, Convention No. 30 allows making these exceptions for shops and other establishments where the nature of the work, the size of population or the number of persons employed render inapplicable the working hours fixed in Articles 3 and 4 of the Convention.<sup>6</sup>

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<sup>1</sup> *League of Nations: Report on the eight-hours day or forty-eight hours week*, op. cit., pp. 139-140, “[I]t is evident that unless the power to work overtime is strictly controlled by the provisions of the Convention, uniformity of working hours between the different industrial countries and the security for the leisure of the workers, which was the main object of the Convention to secure, would not be attained, and the principle of the 48 hours week would to a great extent be rendered nugatory”.

<sup>2</sup> Article 6, paragraph 1(a), of Convention No. 1; Article 7, paragraph 1, of Convention No. 30.

<sup>3</sup> Article 6, paragraph 1(b), of Convention No. 1; Article 7, paragraph 2, of Convention No. 30.

<sup>4</sup> Article 6, paragraph 1(a), of Convention No. 1; Article 7, paragraph 1(a), of Convention No. 30.

<sup>5</sup> Article 6, paragraph 1(a), of Convention No. 1; Article 7, paragraph 1(b), of Convention No. 30.

<sup>6</sup> Article 7, paragraph 1(c), of Convention No. 30.

122. *Temporary or periodical exceptions* may be defined as exceptions in cases when work has occasionally to be carried out outside normal hours to address the temporary necessities of an undertaking and when the exact period at which such work has to be carried out cannot be foreseen.<sup>7</sup> Under Convention No. 1, such exceptions may be permitted in exceptional cases of pressure of work,<sup>8</sup> and under Convention No. 30, in cases of abnormal pressure of work due to special circumstances in so far as the employer cannot ordinarily be expected to resort to other measures.<sup>9</sup> In addition, Convention No. 30 allows temporary exceptions in cases of accident, actual or threatened, *force majeure*, or urgent work to machinery or plant;<sup>10</sup> in order to prevent the loss of perishable goods or avoid endangering the technical results of the work;<sup>11</sup> and in order to allow for special work such as stocktaking and the preparation of balance sheets, settlement days, liquidations and the balancing and closing of accounts.<sup>12</sup>

123. In addition to permanent and temporary exceptions, both Conventions also allow for the suspension by order of the government of provisions governing hours of work in the event of war or other emergency endangering the national safety.<sup>13</sup>

124. Under both Conventions, the permanent and temporary exceptions have to be determined in regulations made by the public authority.<sup>14</sup> These regulations have to be made only after consultation with the organizations of employers and workers concerned, where such organizations exist.<sup>15</sup> Convention No. 30 further requires that special regard be paid to collective agreements, if any, existing between such workers' and employers' organizations.<sup>16</sup>

125. For the purposes of both Conventions, the concept of "overtime" covers only those additional hours in excess of normal hours which are worked in the case of temporary exceptions.<sup>17</sup> As recalled by the Committee of Experts in its 1967 General Survey, as far as additional hours worked in the context of permanent exceptions are concerned, they should be considered, not as "overtime hours", but as "regular normal hours" permitted for certain categories of work and establishments.<sup>18</sup> This distinction results in permanent exceptions being excluded from the obligation for additional hours worked in the context of permanent exceptions to be paid at not less than one and one-quarter times the regular rate.<sup>19</sup>

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<sup>7</sup> *League of Nations: International Labour Conference: Hours of work of salaried employees*, Report II (ILO, Geneva, 1930), p. 216.

<sup>8</sup> Article 6, paragraph 1(b), of Convention No. 1.

<sup>9</sup> Article 7, paragraph 2(d), of Convention No. 30.

<sup>10</sup> Article 7, paragraph 2(a), of Convention No. 30.

<sup>11</sup> Article 7, paragraph 2(b), of Convention No. 30.

<sup>12</sup> Article 7, paragraph 2(c), of Convention No. 30.

<sup>13</sup> Article 14 of Convention No. 1; Article 9 of Convention No. 30.

<sup>14</sup> Article 6, paragraph 1, of Convention No. 1; Article 7 of Convention No. 30.

<sup>15</sup> Article 6, paragraph 2, of Convention No. 1; Article 8 of Convention No. 30.

<sup>16</sup> Article 8 of Convention No. 30.

<sup>17</sup> The term "overtime" is used in Article 6, paragraph 2, of Convention No. 1.

<sup>18</sup> See 1967 General Survey, para. 185; *International Labour Code*, Vol. 1, article 241, note 209 (at pp. 207-208).

<sup>19</sup> *International Labour Code*, op. cit., article 241, note 209; 1967 General Survey, para. 243.

## II. Circumstances in which exceptions may be permitted

### A. Permanent exceptions

#### 1. *Inherently intermittent work*

126. The expression “inherently intermittent work”, as used in the Conventions, means work which is not concerned with production properly called, and which, by its nature, is interrupted by long periods of inaction, during which the respective workers have to display neither physical activity nor sustained attention, and remain at their post only to reply to possible calls.<sup>20</sup>

127. The exception for inherently intermittent work can be found in the legislation of a number of countries. For example, in *Bolivia*, employees performing intermittent functions are exempted from the statutory requirements concerning the normal duration of the working day and the working week.<sup>21</sup> Similarly, in *Costa Rica*, persons performing intermittent functions or functions which require mere presence are excluded from the statutory limitations on the duration of the working day.<sup>22</sup> The specific exception for intermittent work could be also found in the legislation of *Côte d’Ivoire*<sup>23</sup> and *Japan*.<sup>24</sup>

#### 2. “Complementary” and “preparatory” work

128. The terms “complementary” and “preparatory work”, as used in the Conventions, mean work which must necessarily be carried on outside the limits laid down for the general working of an establishment,<sup>25</sup> or outside the limits laid down for the hours of work of the rest of the persons employed in the establishment.<sup>26</sup>

129. In *Finland*, arrangements for preparatory and complementary work can be agreed to in employment contracts. Under the Working Hours Act, preparatory and complementary work refers to: (i) work which is necessary to enable other employees in the same workplace to work throughout their normal working hours; (ii) work carried out by managerial employees with supervisory functions,<sup>27</sup> immediately prior to the

<sup>20</sup> See “Conclusions of the Conference of Labour Ministers held in London from 15 to 19 March 1926”, ILO, *Official Bulletin*, Vol. XI, No. 3, p. 90 (1926). Among possible examples of such work the conclusions of the London Conference indicated doorkeepers, watchmen and works firemen.

<sup>21</sup> Section 46(2) of the General Labour Act.

<sup>22</sup> Section 143 of the Labour Code.

<sup>23</sup> Section 2 of Decree No. 96-203 concerning working time, dated 7 March 1996.

<sup>24</sup> Section 41 of the Labour Standards Law.

<sup>25</sup> Among possible examples of such work, Schedule B to the draft Convention had indicated the work of persons who have to come in before the normal hour for beginning work, or to remain after the day’s work is over, e.g., boiler attendants, enginemen, electricians, oilers and greasers, cleaners, timekeepers and checkers (paragraph (i) of the Schedule) and the work of persons who have to come in earlier to prepare material, e.g., sponge makers in baking trade, moulders, labourers in foundries (paragraph (ii) of the Schedule). *League of Nations: Report on the eight-hours day or forty-eight hours week*, op. cit., p. 145.

<sup>26</sup> Article 7, paragraph 1(b), of Convention No. 30.

<sup>27</sup> Section 39(2) of the Working Hours Act.

commencement or after the end of subordinates' working hours; or (iii) work which is necessary in shift work to allow information to be exchanged at the change of shifts.<sup>28</sup>

130. Exceptions for complementary and preparatory work can be also found in the legislation of *Côte d'Ivoire*,<sup>29</sup> *Gabon*,<sup>30</sup> *India*<sup>31</sup> and *Tunisia*.<sup>32</sup>

3. *Exceptions allowed in view of the nature of the work, the size of the population or the number of persons employed*

131. Convention No. 30 allows permanent exceptions to be made for shops and other establishments where the nature of the work, the size of the population or the number of persons employed render inapplicable the working hours fixed in Articles 3 and 4.<sup>33</sup>

132. This type of exception can be found in the legislation of a number of countries, mostly in connection with the regulation of working hours in the retail trade or restaurants. For example, in *Kenya*, under the Shop Hours Act, where a shop is permitted to remain open after one o'clock in the afternoon on a weekly half-holiday or on a Sunday or public holiday, or after the time fixed for closing by a closing order, a shop assistant may be permitted to work in the shop during the hours that it is allowed to remain open.<sup>34</sup>

B. Temporary or periodical exceptions

1. *Exceptional cases of pressure of work (abnormal pressure of work)*

133. Temporary exceptions are allowed under Convention No. 1 to deal with exceptional cases of pressure of work,<sup>35</sup> and under Convention No. 30 to: prevent the loss of perishable goods or avoid endangering the technical results of the work;<sup>36</sup> allow for special work such as stocktaking and the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts;<sup>37</sup> and deal with cases of abnormal pressure of work due to special circumstances, in so far as the employer cannot ordinarily be expected to resort to other measures.<sup>38</sup> These exceptions are similar in the sense that the necessity to work overtime is due to the pressure of work. The specific reasons for such pressure, however, may be different, and the additional amount of work does not necessarily have to be unforeseen (or unforeseeable). It may be due to the special nature of the activity itself, which may be liable to pressure of work at certain

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<sup>28</sup> Section 20 of the Working Hours Act.

<sup>29</sup> Sections 14 and 15 of Decree No. 96-203 concerning working time, of 7 March 1996.

<sup>30</sup> Section 10 of Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, concerning the regime of derogations from statutory working hours.

<sup>31</sup> Section 13(2) of the Minimum Wages Act.

<sup>32</sup> Section 83 of the Labour Code.

<sup>33</sup> Article 7, paragraph 1(c), of Convention No. 30.

<sup>34</sup> Section 5(2) of the Shop Hours Act. See also section 6(3) of the Mombassa Shop Hours Act.

<sup>35</sup> Article 6, paragraph 1(b), of Convention No. 1.

<sup>36</sup> Article 7, paragraph 2(b), of Convention No. 30.

<sup>37</sup> Article 7, paragraph 2(c), of Convention No. 30.

<sup>38</sup> Article 7, paragraph 2(d), of Convention No. 30.



recurring seasons of the year,<sup>39</sup> to sudden pressure of orders arising from unforeseen events,<sup>40</sup> or to impossibility to accurately prescribe the time for the completion of the work or process by reason of its nature.<sup>41</sup> In the cases of such industries, the need for occasional overtime would probably always remain.<sup>42</sup> It may arise from the fact that the employer has undertaken more work than the workers can get through in the normal working hours; in such cases the overtime is worked to expedite or increase production, or to meet pressure of orders, but the pressure is not due to anything special in the nature of the business itself.<sup>43</sup> Finally, this need may also arise out of the perishable nature of the article manufactured or material used.<sup>44</sup>

134. There is still a certain difference between the temporary exception provided for in Convention No. 1 for exceptional cases of pressure of work and the temporary exception provided for in Convention No. 30 to deal with cases of abnormal pressure of work. While, under Convention No. 30, the use of the exception is subject to the condition that the employer cannot ordinarily be expected to resort to other measures, no such additional requirement is imposed under Convention No. 1.

135. Specific statutory provisions authorizing exception from normal hours of work in exceptional cases of pressure of work exist in the legislations of a number of countries. For example, in *Greece*, overtime work in shops is allowed due to a two-hour extension of shopping hours for the period of 20-31 December each year and during Holy Week, except for Good Friday.<sup>45</sup> In the *Philippines*, any employee may be required by the employer to perform overtime work when the work is necessary to prevent loss or damage to perishable goods; or where the completion or continuation of the work started before the eight hours is necessary to prevent serious obstruction or prejudice to the business or operation of the employer.<sup>46</sup> This type of exception can be also found in the legislation of *Côte d'Ivoire*,<sup>47</sup> *Croatia*,<sup>48</sup> *Gabon*,<sup>49</sup>

<sup>39</sup> Among possible examples of such industries, Schedule C to the draft Convention indicated aerated water making, beer-bottling, printing and book-binding, preparation of food, malting, manufacture of ice, seed cleaning and grading, making and repairing of agricultural implements or machinery, manufacture of artificial manure. *League of Nations: Report on the eight-hours day or forty-eight hours week*, op. cit., p. 146.

<sup>40</sup> Schedule C to the draft Convention indicated making-up of wearing apparel, job dyeing and dry cleaning, biscuit making, warehouses in which goods are made up for shipping orders, packing-case making for shipping orders, ferries, ship-repairing, dock labouring, idem, p. 146.

<sup>41</sup> Schedule C to the draft Convention indicated bleaching and dyeing, textile printing, metal rolling mills and foundries, lead pipe making, copper refining, wire drawing, paper-mills, baking of bread or biscuits, tanneries, starch and cornflour works, vulcanising of rubber, sheathing or covering of electric cables, idem, p. 146.

<sup>42</sup> idem, pp. 138-139.

<sup>43</sup> idem, p. 139.

<sup>44</sup> Among possible examples of such industries, Schedule C to the draft Convention indicated fish-curing, preserving of fruit, preserving of meat, manufacture of condensed milk, extraction of whale oil, manufacture of glue and gelatine, idem, p. 139.

<sup>45</sup> Paragraphs 1 and 2 of section 5 of Legislative Decree No. 1037/71. See also, Legislative Decree No. 515/70 on working time limits of workers.

<sup>46</sup> Sections 89(d) and 89(e) of the Labour Code.

<sup>47</sup> Section 18(b) of Decree No. 96-203 respecting working time, of 7 March 1996.

<sup>48</sup> Section 33(1) of the Labour Law.

<sup>49</sup> Section 14 of Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, respecting the regime of derogations from statutory working time.

*Lithuania*,<sup>50</sup> *Mexico*,<sup>51</sup> *Republic of Moldova*,<sup>52</sup> *Oman*,<sup>53</sup> *Portugal*,<sup>54</sup> *Slovenia*,<sup>55</sup> *Suriname*,<sup>56</sup> *Switzerland*<sup>57</sup> and *Tunisia*.<sup>58</sup>

## 2. Accidents, urgent work and “force majeure”

136. Under Convention No. 1, the limit of hours of work prescribed in Article 2 of the Convention may be exceeded in case of accident, actual or threatened, urgent work to be done to machinery or plant, or *force majeure*, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking.<sup>59</sup> Convention No. 30, for its part, provides that regulations made by public authority shall determine the temporary exceptions which may be granted in case of accident, actual or threatened, *force majeure*, or urgent work to machinery or plant, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment.<sup>60</sup>

137. Even though the exceptions allowed in case of accident, *force majeure* and urgent work are defined in both Conventions in very similar terms, there is still a significant difference between them. In accordance with Convention No. 1, an exception for accident, *force majeure* and urgent work is not listed among temporary exceptions. As a consequence, as distinct from Convention No. 30, there is no requirement under Convention No. 1 for this exception to be determined in regulations made by public authority after consultations with the organizations of employers and workers concerned.

138. Neither of the two Conventions defines the term *force majeure*. Some guidance with respect to its meaning can be drawn from the preparatory work. As indicated in the Explanatory Report to Convention No. 1, the French term *force majeure* was used in the English version, untranslated, in order to retain its exact sense, which was not accurately rendered by the much more general expression “emergency” used in the English version of the draft submitted to the Conference by the Organizing Committee.<sup>61</sup> Based on these considerations, it may be inferred that any case of *force majeure* can be regarded as an “emergency”, but not all cases of “emergency” amount to the level of *force majeure*.

139. Specific exceptions for cases of accident, urgent work and *force majeure* can be found in the legislation of a number of countries. For example, in *Finland*, under the Working Hours Act, when an unexpected event interrupts or seriously threatens to interrupt regular operations or to put life, health or property at risk, the prescribed or agreed regular working hours can be exceeded as required by such causes, although not

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<sup>50</sup> Section 151 of the Labour Code.

<sup>51</sup> Section 66 of the Federal Labour Act.

<sup>52</sup> Section 104 of the Labour Code.

<sup>53</sup> Section 72 of the Labour Code.

<sup>54</sup> Section 199 of the Labour Code.

<sup>55</sup> Section 143 of the Employment Act.

<sup>56</sup> Section 6(1) of the Labour Act.

<sup>57</sup> Section 12(1) of the Labour Act.

<sup>58</sup> Section 83 of the Labour Code.

<sup>59</sup> Article 3 of Convention No. 1.

<sup>60</sup> Article 7, paragraph 2(a), of Convention No. 30.

<sup>61</sup> *League of Nations: International Labour Conference. First annual meeting* (29 October 1919-29 November 1919) (Washington, Government Printing Office, 1920), p. 224.

for longer than two weeks.<sup>62</sup> Emergency work is not included in the overtime hours referred to in section 19 of the Act.<sup>63</sup> In *Sweden*, where a natural disaster or accident, or other similar circumstance that could not have been foreseen by the employer, has caused an interruption in business or imminent danger of such interruption, or injury to life, health or property, overtime hours may be worked to the extent that such conditions so demand (emergency overtime).<sup>64</sup>

140. Specific exceptions for cases of accident, urgent work and *force majeure* can be also found in the legislation of *Algeria*,<sup>65</sup> *Belarus*,<sup>66</sup> *Croatia*,<sup>67</sup> *El Salvador*,<sup>68</sup> *Ethiopia*,<sup>69</sup> *Gabon*,<sup>70</sup> *Latvia*,<sup>71</sup> *Mexico*,<sup>72</sup> *Republic of Moldova*,<sup>73</sup> *Portugal*,<sup>74</sup> *Slovenia*,<sup>75</sup> *Suriname*,<sup>76</sup> *Switzerland*<sup>77</sup> and *Thailand*.<sup>78</sup>

### C. Suspension or exceptions in the event of war or national danger

141. Both Conventions explicitly provide that the operation of their provisions may be suspended in any country by the government in the event of war or other emergency endangering the national safety.<sup>79</sup> As pointed out in the conclusions of the London Conference, use can only be made of this provision in case of a crisis that affects the national economy to such an extent that it threatens the existence of the life of the people.<sup>80</sup> On the other hand, an economic or commercial crisis, which concerns only special branches of industry, cannot be regarded as endangering the national safety within the meaning of this provision, and the suspension of the Convention in such a case would not therefore be justified.<sup>81</sup>

<sup>62</sup> Section 21(1) of the Working Hours Act.

<sup>63</sup> Section 19(2) of the Working Hours Act.

<sup>64</sup> Section 9(1) of the Working Hours Act.

<sup>65</sup> Section 31 of Act No. 90-11 on labour relations.

<sup>66</sup> Sections 121 and 143 of the Labour Code.

<sup>67</sup> Section 33(1) of the Labour Act.

<sup>68</sup> Section 38(6) of the Constitution of El Salvador; section 169 of the Labour Code.

<sup>69</sup> Section 67/1 of the Labour Proclamation.

<sup>70</sup> Section 14 of Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, respecting the regime of derogations from statutory working hours.

<sup>71</sup> Section 136(3) of the Labour Code.

<sup>72</sup> Section 65 of the Federal Labour Act.

<sup>73</sup> Section 104 of the Labour Code.

<sup>74</sup> Section 199 of the Labour Code.

<sup>75</sup> Section 143 of the Employment Act.

<sup>76</sup> Section 6(1) of the Labour Act.

<sup>77</sup> Section 12(1) of the Labour Law.

<sup>78</sup> Section 24(2) of the Labour Protection Act.

<sup>79</sup> Article 14 of Convention No. 1; Article 9 of Convention No. 30.

<sup>80</sup> See conclusions of the Conference of Labour Ministers held in London from 15 to 19 March 1926, ILO, *Official Bulletin*, Vol. XI, No. 3, p. 91 (1926).

<sup>81</sup> *idem*.

142. Relatively few countries have statutory provisions allowing exceptions for reasons related to the occurrence of war or national danger. The scope of these exceptions is usually much broader than that authorized under the Conventions. For example, in *Botswana*, an employee may be required by the employer to exceed the limit of hours prescribed by the Employment Act in case of work that is essential for national defence or security work, the performance of which is essential to the life of the community.<sup>82</sup> In *Morocco*, hours of work can be temporarily extended by the Government in order to perform work in the interest of national defence or public service.<sup>83</sup> In the *Philippines*, any employee may be required by the employer to perform overtime work when the country is at war or when any other national or local emergency has been declared by the National Assembly or the Chief Executive.<sup>84</sup> In *Tunisia*, exceptions from normal hours of work can be made for reasons of national safety and defence.<sup>85</sup> Similar provisions can also be found in *Namibia*.<sup>86</sup>

### III. Limits to the total number of additional hours

#### A. Determination of limits

143. Neither Convention No. 1 nor Convention No. 30 prescribes any specific limits to the total number of additional hours which may be worked during a specified period in case of permanent or temporary exceptions. Convention No. 1 merely states that the maximum of additional hours in each instance of exceptions shall be fixed by regulations made by public authority.<sup>87</sup> Similarly, under Convention No. 30, except in the case of a temporary exception in case of accident, *force majeure* or urgent work, regulations made by the public authority shall determine the number of additional hours of work which may be allowed in the day and, in respect of temporary exceptions, in the year.<sup>88</sup>

144. Even though the establishment of specific limits to the total number of additional hours is left to the competent authorities by both Conventions, this does not mean that such authorities have unlimited discretion in this regard. Taking into account the spirit of the Conventions and in the light of the preparatory work, it is appropriate to conclude that such limits must be “reasonable” and they must be prescribed in line with the general goal of the instruments, namely to establish the eight-hour day and 48-hour week as a legal standard of hours of work in order to provide protection against undue fatigue and to ensure reasonable leisure and opportunities for recreation and social life.<sup>89</sup>

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<sup>82</sup> Section 95(2) of the Employment Act.

<sup>83</sup> Section 11 of the Order of 15 March 1937 on the general conditions of application of Dahir of 18 June 1936 concerning the regulation of hours of work.

<sup>84</sup> Section 89(a) of the Labour Code.

<sup>85</sup> Section 84 of the Labour Code.

<sup>86</sup> Section 9 of the Constitution of Namibia. *Government Gazette*, 21 Mar. 1990, No. 2, pp. 1-80.

<sup>87</sup> Article 6, paragraph 2, of Convention No. 1.

<sup>88</sup> Article 7, paragraph 3, of Convention No. 30.

<sup>89</sup> “Report on a draft Convention relating to the eight-hours day and the forty-eight hours week”, in *League of Nations: International Labour Conference. First annual meeting* (29 October 1919-29 November 1919) (Washington, Government Printing Office, 1920), pp. 222-223. Certain guidance as to what may be considered under the Conventions as permissible limits on the maximum number of additional hours can be drawn from the preparatory work. As far as hours of work in industry are concerned, at the time of the adoption of Convention No. 1, the limits considered to be permissible amounted to a total of 60 hours a week in the case of permanent exceptions and 150 hours a year in the case of temporary exceptions, or 100 hours a year for non-seasonal

145. In the light of the above, when deciding what should be considered as a “reasonable” limit on the number of additional hours in case of a certain exception, the public authority should make a thorough evaluation of the intensity of the respective work, its ability to produce physical or mental fatigue, and of possible negative consequences of fatigue for the respective employee and the public at large. The higher the intensity of the work, the higher is its ability to produce fatigue. The more serious the negative consequences of such fatigue could be,<sup>90</sup> the lower would be a “reasonable” limit that should be allowed in case of a particular exception.

## B. General limits for permanent and temporary exceptions

146. When prescribing limits to the total number of additional hours, national legislations do not follow usually the distinction made in the Conventions between permanent and temporary exceptions. Normally, there is a single statutory limit applicable in cases of both permanent and temporary exceptions, although in many cases this excludes cases of accident, urgent work and *force majeure*, which may be subject to special arrangements outside the framework of the regulation of exceptions to normal working hours.

147. For example, in *Estonia*, under the Working and Rest Time Act, normal working time and overtime together must not exceed an average of 48 hours a week during a four-month recording period,<sup>91</sup> and employees must not be required to work overtime for more than four hours per day.<sup>92</sup> In *Sweden*, under the Working Hours Act, when additional working hours are required, overtime hours may be worked at a rate of not more than 48 hours over a period of four weeks or 50 hours over a calendar month, subject to a maximum of 200 hours a calendar year (general overtime).<sup>93</sup>

148. A single statutory limit to the number of additional hours is also prescribed in the legislation of *Bahrain*,<sup>94</sup> *Belarus*,<sup>95</sup> *Botswana*,<sup>96</sup> *China*,<sup>97</sup> *Costa Rica*,<sup>98</sup> *Côte d’Ivoire*,<sup>99</sup> *Croatia*,<sup>100</sup> *Ecuador*,<sup>101</sup> *El Salvador*,<sup>102</sup>

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activities. See *Report of the Commission on Hours of Work*, p. 229. As far as hours of work in commerce and offices are concerned, at the time of adoption of Convention No. 30, such limits amounted to ten hours a day and 60 hours a week for intermittent work and ten hours a day and 54 hours a week for preparatory or complementary work. See *League of Nations: International Labour Conference: Hours of work of salaried employees. Report II (First Supplement)* (Geneva, ILO, 1930), pp. 253-254.

<sup>90</sup> For example, degree of damage to employee’s health; number of people that could be involved in an accident resulting out of employee’s fatigue.

<sup>91</sup> Section 9(1) of the Working and Rest Time Act.

<sup>92</sup> Section 9(2) of the Working and Rest Time Act.

<sup>93</sup> Section 8 of the Working Hours Act.

<sup>94</sup> Section 79 of the Labour Code.

<sup>95</sup> Section 122(1) of the Labour Code.

<sup>96</sup> Section 95(7) of the Employment Act.

<sup>97</sup> Section 41 of the Labour Law.

<sup>98</sup> Sections 139 and 140 of the Labour Code.

<sup>99</sup> Section 26 of Decree No. 96-203 concerning working time, of 7 March 1996.

<sup>100</sup> Section 33(1) of the Labour Law.

<sup>101</sup> Section 55(1) of the Labour Code.

<sup>102</sup> Section 170 of the Labour Code.

*Greece,*<sup>103</sup> *Honduras,*<sup>104</sup> *Hungary,*<sup>105</sup> *Latvia,*<sup>106</sup> *Lithuania,*<sup>107</sup> *Malaysia,*<sup>108</sup> *Mexico,*<sup>109</sup> *Republic of Moldova,*<sup>110</sup> *Namibia,*<sup>111</sup> *Poland,*<sup>112</sup> *Slovenia,*<sup>113</sup> *South Africa,*<sup>114</sup> *Suriname,*<sup>115</sup> *Switzerland*<sup>116</sup> and *Thailand.*<sup>117</sup>

149. On the other hand, in a number of countries, differing statutory limits have been established for permanent exceptions and for various types of temporary exceptions. This is the case in *Algeria,*<sup>118</sup> *Benin,*<sup>119</sup> *Brazil,*<sup>120</sup> *Ethiopia,*<sup>121</sup> *Finland,*<sup>122</sup> *Gabon,*<sup>123</sup> *Indonesia,*<sup>124</sup> *Portugal,*<sup>125</sup> *Qatar,*<sup>126</sup> *Tunisia*<sup>127</sup> and *Viet Nam.*<sup>128</sup>

150. In other countries, no statutory limits are prescribed to the number of additional hours in case of temporary exceptions, and the limits are established through other legal methods. For example, in *Australia*, in 2002 the Australian Industrial Relations Commission established a “Reasonable Hours” Test in relation to reasonable overtime, which builds upon the “well-established right of an employer to require an employee to work reasonable overtime”. Subject to this reasonable overtime clause, an employer may require an employee to work reasonable overtime at overtime rates, while an employee may refuse to work overtime in circumstances where the working of such overtime

<sup>103</sup> Section 1(1) of Legislative Decree No. 515/70.

<sup>104</sup> Section 332 of the Labour Code.

<sup>105</sup> Sections 127(4) and (5) of the Labour Code.

<sup>106</sup> Section 136(5) of the Labour Code.

<sup>107</sup> Section 151 of the Labour Code.

<sup>108</sup> Section 2 of the Employment (Limitation of Overtime Work) Regulations 1980.

<sup>109</sup> Section 66 of the Federal Labour Act.

<sup>110</sup> Section 104(5) of the Labour Code.

<sup>111</sup> Section 32(2) of the Labour Act. The Government indicates that different limits have been set for security guards or workers employed as guards and ordinary workers.

<sup>112</sup> Sections 151(3) and (4) of the Labour Code.

<sup>113</sup> Section 143 of the Employment Act.

<sup>114</sup> Section 10(1) of the Basic Conditions of Employment Act.

<sup>115</sup> Section 6(1) of the Labour Act.

<sup>116</sup> Section 12(2) of the Labour Act.

<sup>117</sup> Section 26 of the Labour Protection Act; Ministerial Regulation No. 3 under the Labour Protection Act.

<sup>118</sup> Section 31 of Act No. 90-11 on labour relations.

<sup>119</sup> Section 146 of the Labour Code.

<sup>120</sup> Sections 50, 59 and 61 of the Consolidation of Labour Laws.

<sup>121</sup> Section 67/2 of the Labour Proclamation.

<sup>122</sup> Sections 19(1), 19(2), 19(3) and 20(2) of the Working Hours Act.

<sup>123</sup> Sections 10 and 14 of Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, concerning the regime of derogations from the statutory working hours.

<sup>124</sup> Decree (*Kepmenakertrans*) No. 234/MEN/2003 concerning working hours and rest hours and the energy and mining sources (permanent exceptions); section 3 of Act 13/2003 concerning manpower (temporary exceptions).

<sup>125</sup> Sections 169(1), 200, 176(2), 178(3) and 178(4) of the Labour Code.

<sup>126</sup> Section 74 of the Labour Law.

<sup>127</sup> Sections 83 and 93 of the Labour Code.

<sup>128</sup> Sections 69 and 80 of the Labour Code.

would result in the employee working hours which are unreasonable. Matters to be taken into account when assessing whether hours are reasonable include: any risk to employee health and safety; the employee's personal circumstances, including any family responsibilities; the needs of the workplace or enterprise; the notice (if any) given by the employer of the overtime and by the employee of her or his intention to refuse it; and any other relevant matter. In *Dominica*, under the Labour Contracts Act, wherever the employer considers that operational conditions so require, the employee may be called upon and she or he may consent to work reasonable overtime in excess of normal working hours. As far as possible, at least four hours notice of the requirement for overtime has to be given.<sup>129</sup>

151. Finally, in other countries, there are no statutory or judicial limits on the number of additional hours. In *Japan*, according to the Government, in the case of a permanent exception, the limitation on working hours does not apply and therefore there is no overtime. Moreover, no limits are specified for overtime work in the case of temporary exceptions (disasters, etc.). Where overtime working is covered by a written agreement between an employer and an employee, such an agreement must set the limit for overtime, while the Government determines the maximum limit for overtime.<sup>130</sup> As far as national public employees are concerned, the Working Hours Law does not prescribe the total number of hours of overtime that may be worked. However, as pointed out by the Government, under the guidelines issued by the National Personnel Authority, 360 hours a year is the benchmark for an upper limit on overtime. As an exception, workplaces where the volume of work or its timing is determined by outside factors, do not have to be bound by this benchmark. In *Papua New Guinea*, as the normal national practice under the National General Orders, decisions on the number of hours to be worked as overtime remain the prerogative of immediate supervisors, who decide for their workers, depending on the amount and degree of work, as well as the urgency of the work if deadlines have to be met.<sup>131</sup>

152. There are also no specific limits prescribed on the number of additional hours in the *Central African Republic*, *Denmark*,<sup>132</sup> *Fiji*, *Kenya*, *Mauritius*,<sup>133</sup> *Philippines*,<sup>134</sup> *United Kingdom* and *Zimbabwe*.

### C. Special arrangements for cases of accident, urgent work and “*force majeure*”

153. In certain countries, additional hours worked in case of accident, urgent work or *force majeure* are subject to special arrangements. General limits on additional hours are not applied in these cases in *Algeria*,<sup>135</sup> *Belarus*,<sup>136</sup> *Brazil*,<sup>137</sup>

<sup>129</sup> Section 5(a) of the Labour Contracts Act.

<sup>130</sup> Section 36 of the Labour Standards Law.

<sup>131</sup> Section C(13.59) of the National General Orders.

<sup>132</sup> According to the Government, exceptions (overtime hours) are decided by collective agreement and controlled by industrial procedures. No state control is exercised or public statistics kept in this field.

<sup>133</sup> According to the Government, limits are not generally set, except in the export processing sector, where ten hours' overtime a week are compulsory.

<sup>134</sup> Sections 8 and 9, Rule 1, Book III of the Rules to Implement the Labour Code.

<sup>135</sup> Section 31 of Act 90-11 on labour relations.

<sup>136</sup> Section 122(2) of the Labour Code.

<sup>137</sup> Sections 59 and 61 of the Consolidation of Labour Laws.

*China,*<sup>138</sup> *Costa Rica,*<sup>139</sup> *Estonia,*<sup>140</sup> *Gabon,*<sup>141</sup> *Greece,*<sup>142</sup> *Hungary,*<sup>143</sup> *India,*<sup>144</sup> *Malaysia,*<sup>145</sup> *Mexico,*<sup>146</sup> *Portugal,*<sup>147</sup> *Qatar,*<sup>148</sup> *Slovenia,*<sup>149</sup> *South Africa,*<sup>150</sup> *Sweden,*<sup>151</sup> *Thailand*<sup>152</sup> and *Tunisia.*<sup>153</sup> In *Finland*, under the Working Hours Act, emergency work is not included in the overtime hours referred to in section 19 of the Act.<sup>154</sup>

#### IV. Payment for overtime

154. Under Convention No. 1, the rate of pay for overtime shall not be less than one and one-quarter times the regular rate.<sup>155</sup> Even though the wording of Convention No. 1 does not specifically exclude permanent exceptions from the obligation to make payment at a higher rate, the interpretation of this provision at the London Conference was that the obligation as to the rate of pay for overtime imposed by the Convention applies only to the additional hours envisaged by Article 6, paragraph 1(b), of the Convention, that is only in case of temporary exceptions.<sup>156</sup> Under Convention No. 1, payment at a higher rate is therefore required neither in cases of permanent exceptions nor in cases of accident or *force majeure*, when the limit of hours of work prescribed in Article 2 of the Convention may be exceeded.<sup>157</sup> Under Convention No. 30, the rate of pay for additional hours of work permitted under paragraph 2(b), (c) and (d) of Article 7 shall not be less than one-and-a-quarter times the regular rate.<sup>158</sup> In the same way as Convention No. 1, Convention No. 30 does not require payment at a higher rate in cases of permanent exceptions and in cases of accident or *force majeure*.

<sup>138</sup> Section 42 of the Labour Act.

<sup>139</sup> Section 140 of the Labour Code.

<sup>140</sup> Section 9(3) of the Working and Rest Time Act.

<sup>141</sup> Section 14 of Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, concerning the regime of derogations from statutory working hours.

<sup>142</sup> Section 1 of Legislative Decree No. 515/70.

<sup>143</sup> Section 128 of the Labour Code.

<sup>144</sup> Section 13(2) of the Minimum Wages Act, 1948.

<sup>145</sup> Section 60A(2) of the Employment Act of 1955.

<sup>146</sup> Section 65 of the Federal Labour Act.

<sup>147</sup> Sections 199 and 200 of the Labour Code.

<sup>148</sup> Section 74 of the Labour Law.

<sup>149</sup> Section 144 of the Employment Act.

<sup>150</sup> Section 6(2) of the Basic Conditions of Employment Act.

<sup>151</sup> Section 9 of the Working Hours Act.

<sup>152</sup> Item 3(2) of Ministerial Regulation No. 12 issued under the Labour Protection Act.

<sup>153</sup> Section 93 of the Labour Code.

<sup>154</sup> Section 21(2) of the Working Hours Act.

<sup>155</sup> Article 6, paragraph 2, of Convention No. 1.

<sup>156</sup> “Conclusions of the Conference of Labour Ministers held in London from 15 to 19 March 1926”, ILO, *Official Bulletin*, Vol. XI, No. 3, p. 90 (1926).

<sup>157</sup> Article 3 of Convention No. 1.

<sup>158</sup> Article 7, paragraph 4, of Convention No. 30.



155. In a number of countries the legislation prescribes the amount of remuneration payable in case of additional hours without making any distinction between cases of permanent and temporary exceptions. This is the case in *Poland* where, in accordance with the Labour Code, employees shall be entitled for overtime hours, in addition to their regular remuneration, to an additional payment amounting to: (i) 100 per cent of regular remuneration for overtime work at night, on Sundays and on holidays that are not working days for a given employee, in accordance with the respective work schedule, on a day-off granted to the employee as compensation for working on Sunday or on holiday, in accordance with the respective work schedule; or (ii) 50 per cent of regular remuneration for overtime work performed on any other day.<sup>159</sup> An additional payment amounting to 100 per cent of regular remuneration also has to be paid for each hour of overtime work that exceeds the average weekly working time limit within the averaging period that has been adopted.<sup>160</sup>

156. The amount of payment for additional hours is also prescribed in the legislation of *Bahrain*,<sup>161</sup> *Bangladesh*,<sup>162</sup> *Belarus*,<sup>163</sup> *Benin*,<sup>164</sup> *Botswana*,<sup>165</sup> *Brazil*,<sup>166</sup> *China*,<sup>167</sup> *Costa Rica*,<sup>168</sup> *Côte d'Ivoire*,<sup>169</sup> *Czech Republic*,<sup>170</sup> *Dominica*,<sup>171</sup> *Ecuador*,<sup>172</sup> *El Salvador*,<sup>173</sup> *Ethiopia*,<sup>174</sup> *Finland*,<sup>175</sup> *France*,<sup>176</sup> *Greece*,<sup>177</sup> *Grenada*,<sup>178</sup> *Honduras*,<sup>179</sup> *Hungary*,<sup>180</sup> *India*,<sup>181</sup> *Indonesia*,<sup>182</sup> *Japan*,<sup>183</sup>

<sup>159</sup> Paragraph 1 of section 151-1 of the Labour Code.

<sup>160</sup> Paragraph 2 of section 151-1 of the Labour Code.

<sup>161</sup> Sections 79-81 of the Labour Code.

<sup>162</sup> Section 58 of the Factories Act; section 9 of the Shops and Establishments Act.

<sup>163</sup> Section 69 of the Labour Code.

<sup>164</sup> Section 147 of the Labour Code.

<sup>165</sup> Section 95(5) of the Employment Act.

<sup>166</sup> Sections 59 and 61 of the Consolidation of Labour Laws.

<sup>167</sup> Section 44 of the Labour Act.

<sup>168</sup> Article 58 of the Constitution; section 139 of the Labour Code.

<sup>169</sup> Section 24 of Decree No. 96-203 concerning working time, of 7 March 1996.

<sup>170</sup> Section 5 of Law No. 1/1992 on wages, remuneration on stand-by and average earnings.

<sup>171</sup> Section 11 of the Labour Standards Act; section 5(b) of the Labour Contracts Act.

<sup>172</sup> Section 55(2) of the Labour Code.

<sup>173</sup> Section 169 of the Labour Code.

<sup>174</sup> Section 68(1) of the Labour Proclamation.

<sup>175</sup> Sections 22(1), 22(2), 22(3), 23(1), 23(2) and 23(3) of the Working Hours Act.

<sup>176</sup> Act No. 2003-47, of 17 January 2003.

<sup>177</sup> Section 4 of Act 2874/2000.

<sup>178</sup> Section 42(2) of the Employment Act No. 14 of 1999.

<sup>179</sup> Sections 329 and 330 of the Labour Code.

<sup>180</sup> Sections 147 and 149(2) of the Labour Code.

<sup>181</sup> Section 25 of the Minimum Wages (Central) Rules, 1950.

<sup>182</sup> Ministerial Decree No. 72/Men/194 concerning the principle of overtime fees.

<sup>183</sup> Section 37 of the Labour Standards Law; Government Ordinance No. 5 of 4 January 1994 concerning the determination of the minimum limit on the rate concerning increased wages for overtime work or work on rest days with respect to section 37(1) of the Labour Standards Law (private sector) (as amended by Government

*Mexico*,<sup>184</sup> *Republic of Moldova*,<sup>185</sup> *Namibia*,<sup>186</sup> *Oman*,<sup>187</sup> *Panama*,<sup>188</sup> *Papua New Guinea*,<sup>189</sup> *Portugal*,<sup>190</sup> *Qatar*,<sup>191</sup> *South Africa*,<sup>192</sup> *Suriname*,<sup>193</sup> *Switzerland*,<sup>194</sup> *Thailand*,<sup>195</sup> *Tunisia*<sup>196</sup> and *Viet Nam*.<sup>197</sup>

157. In *Nigeria*, the legislation prescribes rates of payment for overtime only for the public sector.<sup>198</sup>

158. In *Fiji*, overtime and overtime rates are stipulated in the Wage Regulation Orders (WRO) issued by the Wage Councils. Similarly, in *Malta*, the amount of pay for overtime is regulated by the Wage Regulation Orders governing particular sectors of employment.

159. Finally, in a number of countries the legislation does specify the rate of payment for overtime. This is the case in *Sweden* where, as indicated by the Government, payment for overtime is governed entirely by collective agreements and is not subject to any provision of the Working Hours Act. Nor is any statutory regulation of the amount of payment for overtime hours in *Croatia*, *Gabon*, *Germany*, *Slovenia*,<sup>199</sup> *United Kingdom* or *Zimbabwe*.

## V. Procedures for the authorization of extensions of working hours

160. Under Convention No. 1, regulations determining permanent and temporary exceptions shall be made by the public authority only after consultation with the organizations of employers and workers concerned, if any such organizations exist.<sup>200</sup>

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Ordinance No. 309 of 7 June 2000); section 16 of Law No. 59 of 3 April 1950 concerning the remuneration of public service employees (as amended by Law No. 141 of 16 October 2003); Main Rule of the Rules of the National Personnel Authority 9-97 (national public employees), of 4 January 1994 (as amended on 25 October 1999).

<sup>184</sup> Sections 67 and 68 of the Federal Labour Act.

<sup>185</sup> Section 157 of the Labour Code.

<sup>186</sup> Section 32(3)(a) of the Labour Act.

<sup>187</sup> Sections 70 and 73 of the Labour Code.

<sup>188</sup> Sections 33 and 36 of the Labour Code.

<sup>189</sup> Section 52 of the Employment Act.

<sup>190</sup> Section 258 of the Labour Code.

<sup>191</sup> Section 74(2) and (3) of the Labour Act.

<sup>192</sup> Sections 10(2) and (3) of the Basic Conditions of Employment Act.

<sup>193</sup> Section 12(2) of the Labour Act.

<sup>194</sup> Section 13 of the Labour Act.

<sup>195</sup> Sections 61-63 of the Labour Protection Act.

<sup>196</sup> Section 90 of the Labour Code.

<sup>197</sup> Section 61 of the Labour Code.

<sup>198</sup> Sections 2207 and 2208 of the Public Service Rules.

<sup>199</sup> In accordance with section 128 of the Employment Act, the amount of payment shall be established in collective agreements for particular activities. See section 46(5) of the General Collective Agreement for Commercial Activities and section 38 of the General Collective Agreement for Non-Commercial Activities.

<sup>200</sup> Article 6, paragraph 2, of Convention No. 1.

Under Convention No. 30, regulations concerning permanent and temporary exceptions shall be made by the public authority after consultation with the workers' and employers' organizations concerned, special regard being paid to collective agreements, if any, existing between such organizations.<sup>201</sup> Neither of the two Conventions specifically prescribes the form of such consultations or outlines the procedure for the authorization of the extension of working hours in the case of these exceptions. Both Conventions are also silent on the procedure for the authorization of the extension of working hours in individual cases at the level of a particular undertaking or establishment.

161. The information in the reports received primarily focuses on the procedures for the authorization of the extension of working hours and the respective consultations *between* the representative organizations of employers and workers in specific cases (which may be called "horizontal" consultations), rather than on consultations of the public authority with employers' and workers' organizations prior to making regulations ("vertical" consultations).

162. In certain countries, the legislation requires the conclusion of collective agreements between the representative organizations of employers and workers on the extension of working hours, and therefore indirectly requires consultations for this purpose. This is the case in *China, Finland*,<sup>202</sup> *Japan, Papua New Guinea*,<sup>203</sup> *South Africa* and the *United Arab Emirates*.

163. In other cases, there is no requirement for an agreement to be concluded concerning the extension of working hours, even though consultations between employers and workers or their respective organizations are required. This is the case in the *Central African Republic*, where any modification of working schedules has to be communicated in advance to the representatives of workers and the labour inspectorate. Consultations also have to be held in *Senegal*,<sup>204</sup> *Switzerland, Thailand* and *Viet Nam*.

164. In some cases, a unilateral request by an employer for the extension of working hours in a specific workplace is subject to approval by the competent public authority. This is the case in *Sweden* where, on application by the employer in cases where it is impossible to conclude a collective agreement, the Work Environment Authority may sanction up to 150 hours' additional overtime annually in excess of general overtime.<sup>205</sup> The approval of the competent authority is also required in *Bangladesh, Bahrain, Botswana*,<sup>206</sup> *Gabon, Germany, Madagascar, Namibia* and *Tunisia*.<sup>207</sup>

165. In certain instances, the approval of the competent public authority is required only when the number of additional hours exceeds a certain limit. In *Benin*, the preliminary approval of the labour inspector is required only if the number of additional hours exceeds 240 hours per year; where the number of additional hours is below this number

<sup>201</sup> Article 8 of Convention No. 30.

<sup>202</sup> Section 9 of the Working Hours Act.

<sup>203</sup> Section 52 of the Employment Act.

<sup>204</sup> In *Senegal*, the most representative organizations of employees of the respective branch of economic activity have to be consulted.

<sup>205</sup> Section 19(3) of the Working Hours Act.

<sup>206</sup> Sections 95(11)-95(13) of the Employment Act.

<sup>207</sup> Section 87 of the Labour Code.

the inspector only has to be notified.<sup>208</sup> In *Latvia*, the employer has to obtain a permit from the State Labour Inspectorate when overtime work without the consent of an employee continues for more than six consecutive days, except in cases where a repetition of such overtime is not expected.<sup>209</sup> Limits on the number of additional hours beyond which the employer has to seek the authorization of the public authority are also prescribed in *France*.<sup>210</sup>

166. In a number of countries, even though no approval by the competent public authority is required, the employer has to notify the authority in writing of the overtime worked. This is the case in *Greece*, where prior written notice has to be submitted to the labour inspectorate. In *Portugal*, every year in January and July the employer has to submit a report to the Inspectorate-General of Labour on workers performing overtime during the preceding half of the year and the number of hours worked. This report has to be endorsed by the workers' committee or, in its absence, by the respective trade union if the worker is a member.<sup>211</sup>

167. Finally, in a number of countries, neither consultation between the representative organizations of employers and workers nor approval by the public authority is required for the extension of working hours. This is the case in *Hungary*, where the decision to perform additional work lies within the employer's competence, and the legislation requires no further procedures or consultations between the representative organizations of employers and employees. Neither consultations between the organizations of employers and workers nor approval by the public authority are required in *Belarus*. No specific procedures exist in this respect in *Costa Rica*, *Kenya*, *Mauritius* or *Qatar*.

## VI. Concluding comments

168. Analysis of the information provided by governments and the social partners leads to the conclusion that in many cases the regulation of exceptions from the normal duration of working hours in national legislation and practice does not correspond to the procedural requirements set forth by the Conventions. While, under the provisions of the Conventions, regulations determining permanent and temporary exceptions have to be made by the public authority only after consultations with the organizations of employers and workers concerned, in many countries no such "vertical" consultations are required. Instead, this issue is frequently governed through "horizontal" consultations between these organizations at the level of individual enterprises.

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<sup>208</sup> Section 145 of the Labour Code.

<sup>209</sup> Section 136(4) of the Labour Code.

<sup>210</sup> Decree of 15 October 2002, confirmed by the Decree of 20 March 2003. Available at: <http://www.legifrance.gouv.fr/>.

<sup>211</sup> Section 204(6) of the Labour Code.

## Chapter V

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### Policies concerning hours of work

#### I. Policies and measures recommended by the ILO

169. Neither Convention No. 1 nor Convention No. 30 prescribe any requirements as to policies or measures concerning hours of work, nor do they mention any such policies or measures. Nevertheless, certain guidance as to the formulation and implementation of policies on hours of work can be drawn from the Reduction of Hours of Work Recommendation, 1962 (No. 116).<sup>1</sup>

170. Recommendation No. 116 was designed to supplement and facilitate the implementation of existing international instruments by indicating practical measures for the progressive reduction of hours of work, taking into account the differences in economic and social conditions in the various countries, as well as the variety of national practices for the regulation of hours and other conditions of work; by outlining in broad terms methods by which such practical measures might be applied; and by indicating the standard of the 40-hour week, as set out in the Forty-Hour Week Convention, 1935 (No. 47), as a social standard to be reached by stages if necessary, and setting a maximum limit for normal hours of work, pursuant to the Hours of Work (Industry) Convention, 1919 (No. 1).<sup>2</sup> The Recommendation calls upon each Member to formulate and pursue a national policy designed to promote by methods appropriate to national conditions and practice, and to conditions in each industry, the adoption of the principle of the progressive reduction of normal hours of work.<sup>3</sup> Moreover, normal hours of work should be progressively reduced, when appropriate, with a view to attaining the social standard indicated in the Preamble of the Recommendation, without any reduction in the wages of the workers as at the time hours of work are reduced.<sup>4</sup> Where the duration of the normal working week exceeds 48 hours, immediate steps should be taken to bring them down to this level without any reduction in the wages of the workers when hours of work are reduced.<sup>5</sup> Where normal weekly hours of work are either 48 or less, measures for the progressive reduction of hours of work should be formulated and implemented in a manner suited to the national circumstances and the conditions in each sector of economic activity.<sup>6</sup>

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<sup>1</sup> The text of the Reduction of Hours of Work Recommendation, 1962 (No. 116), can be found in Appendix III.

<sup>2</sup> Preamble to Recommendation No. 116.

<sup>3</sup> Paragraph 1 of Recommendation No. 116.

<sup>4</sup> Paragraph 4 of Recommendation No. 116.

<sup>5</sup> Paragraph 5 of Recommendation No. 116.

<sup>6</sup> Paragraph 6 of Recommendation No. 116.

171. In carrying out measures for the progressive reduction of hours of work, priority should be given to industries and occupations which involve a particularly heavy physical or mental strain or health risks for the workers concerned, particularly where these consist mainly of women and young persons.<sup>7</sup>

172. Although the ILO has up to now recommended that governments pursue policies and measures aimed exclusively at the reduction of hours of work, not all countries have followed this recommendation. While a significant number of countries have indeed formulated and vigorously pursued such policies and measures, policies and measures concerning hours of work in a certain number of countries are not aimed at their reduction, but either at changing their arrangement or even at their extension. This represents a major shift in global working-time policies compared to the situation described in the 1967 and 1984 General Surveys.<sup>8</sup> Finally, in certain countries, no specific policies or measures concerning hours of work have been adopted. The four types of situation described above are discussed separately in subsequent sections.

## II. Existing national policies and measures aimed at reducing hours of work

173. While differing in their details, the majority of existing national policies and measures aimed at reducing hours of work have one important common feature. The reduction of hours of work is not considered as the overall objective. It is viewed rather as a tool for achieving two major goals: (i) creating additional workplaces; and (ii) achieving a balance between the work and family lives of employees.

174. For example, in *Canada* (Quebec), the economic growth that followed the recession at the beginning of the 1990s did not result in the creation of a sufficient number of jobs. A major debate in society on the sharing of work led to the achievement of a consensus among the social partners on the reduction of normal working week from 44 to 40 hours. Over the past few years, the debate has mainly focused on the difficulties of reconciling work with family responsibilities. As a result, several changes were made to the Act Respecting Labour Standards in 2002.

175. In *France*, statutory hours of work were reduced from 39 to 35 hours by the Acts of 18 June 1998 and 19 January 2000. However, the Act of 17 January 2003 allows for a relaxation of the 35-hour week and is based on the following four principles: (i) a better balance between the law and negotiations concerning hours of work; (ii) a new balance between free time and income; (iii) the simplification and clarification of the rules applicable in the area of hours of work; and (iv) taking the needs of small enterprises into account. The Government currently favours the promotion of social dialogue and collective bargaining between social partners on these issues. According to the Government, a bill respecting professional training and social dialogue is under discussion in Parliament.

176. In *Germany*, within the overall legislative framework, hours of work are determined first and foremost by the parties to collective agreements. As the Government has pointed out, these agreements have to take into account both workers'

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<sup>7</sup> Paragraph 9 of Recommendation No. 116.

<sup>8</sup> As indicated in their titles, Chapter IV "Policy and measures to reduce hours of work" of the 1967 General Survey and Chapter I "Reduction of hours of work" of the 1984 General Survey, dealt exclusively with policies aimed at the reduction of hours of work, and no other policies were contemplated.

interests and economic necessities. Furthermore, the labour market consequences of working-time arrangements must also be considered. As a result, average regular working hours have fallen from around 40.3 hours a week in 1974 to 37.4 in 2003 in the western part of Germany, and to around 39 hours a week in the eastern part of Germany. The entitlement to part-time work under section 8 of the Part-Time and Limited Duration Work Act<sup>9</sup> has also led to a significant increase in the number of part-time workers. Since the entry into force of this Act on 1 January 2001, the number of part-time employees has grown by almost 460,000, marking a rise of 1.6 per cent in the relative percentage of persons working part-time (who currently account for 21.4 per cent of the workforce).

177. In *Hungary*, discussions aimed at the conclusion of a tripartite agreement on reducing statutory working time were initiated within the framework of a government programme. However, negotiations on this subject conducted in the Interest Reconciliation Council have so far been inconclusive.

178. In *Japan*, the Labour Standards Law was revised in 1987 to reduce gradually the statutory hours of work from 48 hours a week to 40 hours a week. On 1 April 1997 the new system of the 40-hour week was introduced except for special cases. The Special Measures Law to promote the reduction of working hours was enacted in 1992 with a view to reducing working hours. Various measures were adopted on the basis of this Law, including provision of subsidies to undertakings or other bodies dealing with the reduction of the working hours. The Government formulated the Working Hours Reduction Plan, which incorporated as the Government's target the achievement and consolidation of 1,800 actual hours of work a year on average per worker. As a result of these measures, total actual hours of work on average have fallen from 1,958 in the 1992 fiscal year to 1,841 hours in the 2002 fiscal year. The Government intends to continue taking the necessary measures to reduce working hours with a view to achieving its target.

179. In the *Republic of Moldova*, the Government's policy on hours of work has been designed along the lines of the Forty-Hour Week Convention, 1935 (No. 47). The principal objectives of the policy were incorporated into the new Labour Code, which entered into force on 1 October 2003.<sup>10</sup>

180. In *Morocco*, in the light of the current economic and social situation in the country, the policies concerning hours of work are aimed at an effective reduction of working time in order to encourage the creation of new jobs and to allow workers to enjoy more free time. The new Labour Code accordingly reduced weekly hours of work from 48 to 40 hours.<sup>11</sup>

181. In *Poland*, hours of work have been shortened over the past few years, with average weekly working time falling from 42 to 40 hours a week, and an average five-day working week has been introduced. A number of changes in the working-time regulations were introduced in 2003. New working-time arrangements were introduced (compressed work-weeks, weekend work) and provision was made for the extension of averaging periods in specific situations.

<sup>9</sup> Part-Time and Limited Duration Work Act of 21 December 2000 (*Teilzeit- und Befristungsgesetz vom 21.12.2001*, BGBl. I, S. 1966).

<sup>10</sup> Labour Code of Moldova, of 28 March 2003 (Law No. 154-XV). *Monitorul Oficial*, 2003, No. 159-162.

<sup>11</sup> Labour Code of Morocco of 2003. *Bulletin officiel*, of 8 December 2003.

182. In *Qatar*, the Government decided that weekly rest should be two days a week in ministries and government bodies. This decision led to a reduction of working hours to 35 hours a week and seven hours a day. In the private sector all banks, many of which are large and medium-sized enterprises, have also established two days of weekly rest, while retaining the normal working hours set out by law.

183. In *Senegal*, the policies for the reduction of hours of work were intended to avoid reductions in personnel for economic reasons.

184. In *South Africa*, the Basic Conditions of Employment Act contains a Schedule of procedures for the progressive reduction of maximum working hours to a level of 40 hours a week.<sup>12</sup> This Schedule covers the procedures to be adopted in reducing hours through collective bargaining and the publication of sectoral determinations, having regard to the impact of a reduction of working hours on existing employment and employment creation opportunities, economic efficiency and the health, safety and welfare of employees.

185. In *Tunisia*, a new version of section 79 of the Labour Code (as amended by Act No. 96-62 of 1996) provides for the possibility of reducing the maximum length of work by collective agreements or regulations adopted after consultation with employers' and workers' organizations. Prior to the changes introduced in 1996, such a reduction could only have been made by decree. Moreover, the changes made it possible to establish the length of the working week between 48 and 40 hours per week, in comparison with the previous situation when a statutory working time was either 48 or 40 hours a week.

186. In *Viet Nam*, the policies concerning hours of work are aimed at raising public awareness about the harm of continuous overtime work and the significance of working time for decreasing the unemployment rate. These policies are also aimed at strengthening the inspection and supervisory mechanism in general to deal with violations. They also provide for the development of various social services, particularly to provide entertainment to workers during leisure time.

### III. Existing national policies and measures aimed at changing working-time arrangements

187. In a number of countries, the policies and measures concerning hours of work were aimed at changing working-time arrangements, mainly with a view to reconciling work and the private lives of workers.

188. For example, in *Australia* (Queensland), following a 2001 election commitment, the Department of Industrial Relations (DIR) prepared a draft discussion paper that examined issues surrounding working hours and put forward options for developing industry codes of practice. This document was circulated to government agencies. Consultation with these agencies indicated that, rather than these codes being regulatory documents, there was a general preference for them to be developed through a partnership approach in the form of broad, commitment-based documents dealing with the specific needs of the organization and its employees. As a result of the consultation, the government view was that codes were best developed voluntarily between the relevant parties, rather than on a regulatory, prescriptive basis. The Department, in conjunction with its industry partner Griffith University, also undertook a research

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<sup>12</sup> Schedule One to the Basic Conditions of Employment Act, No. 75 of 1997. *Government Gazette*, dated 5 Dec. 1997, No. 18491. Available at: <http://www.info.gov.za/gazette/acts/1997/a75-97.pdf>.



project entitled “Working-time transformations and effects in Australian workplaces”, partially funded by the Australian Research Council. The project comprised two primary sources: a survey instrument and an in-depth case study analysis conducted across 17 Queensland organizations. The organizations covered by this study were selected to represent a cross-section of Queensland organizations with a range of workplace characteristics. Through the project, various working-time issues were identified as significant to the labour market climate of Queensland. The categories of working-time changes examined by the project included a range of “family friendly” practices, the annualization of salaries, the use of multi-hiring, compressed work weeks, extended working hours, fly-in/fly-out operations, self-rostering, and flexible working hours. An official report summarizing the findings from the research and highlighting key points and policy implications was made public in 2003.

189. In *Finland*, the labour market organizations have highlighted the need for the development of long-range and versatile individual working-time options by investigating, for instance, the scope for specific working-time arrangements for individual companies and working-time pools and banks. Policies on hours of work are focusing on reconciling work and family life. Together with the social partners, the Government is aiming to promote working-time arrangements that are better adapted to the needs of families and children. The Government programme includes several development projects to improve the potential for reconciling work and family life. The right to part-time care leave will be expanded to cover parents who are shortening their working hours to care for a child during the first two years of school. The partial home care allowance will be increased. The grounds for granting part-time care leave have already been relaxed. On 15 December 2002, the social partners have concluded the incomes policy arrangement for 2003-04, which includes several measures relating to the quality of working life, occupational skills and competence, working hours and the reconciliation of work and family life. Under the agreement, unfeasibly short shifts are to be avoided and shifts under four hours in length must not be used at all, unless so required to cater for employee needs or for other serious reasons. A statement will be drawn up on long-term individual working hours arrangements. The aim is to support the productivity and competitiveness of companies and workplace communities and to promote employees’ needs relating to working hours, job satisfaction and welfare. These goals can be furthered by introducing a job account or time bank system for the long-term evaluation of working hours.

190. In the *Philippines*, Order No. 21 of the Department of Labor and Employment concerning the Guidelines on the Implementation of the Compressed Workweek is currently under review by the Department’s Bureau of Working Conditions.<sup>13</sup>

191. In the *United Kingdom*, the Government has recognized that the culture of working long hours is unproductive. The Department for Trade and Industry’s recent Work Life Balance Baseline Survey demonstrated that employers were also recognizing its cost to business. The Work Life Balance campaign was launched in 2000 to encourage employers to adopt flexible working policies. The campaign is moving away from raising awareness and looking more to help both employers and workers recognize that work life policies are for the benefit of all parties. According to the Government, many have already recognized this. A number of major organizations, such as banks and supermarkets, have stated that they welcome requests to work flexibly from everyone,

<sup>13</sup> Order No. 21 of the Department of Labor and Employment concerning the Guidelines on the Implementation of the Compressed Workweek of 1990. Printed separately.

and that they only turn down such requests when there is a clear business detriment. This is a significant change in business culture and the Government wishes to spread it through all firms, large and small.

#### IV. Existing national policies and measures aimed at extending hours of work

192. National policies and measures aimed at extending hours of work have their roots in economic factors, such as the insufficient number of employees in a given sector of economy, or the need to increase output.

193. For example, in *Latvia*, the policy concerning hours of work has been developed in accordance with the country's international obligations (European Union, ILO, etc.) and the present needs of Latvian society, represented by the Latvian Employers' Confederation and the Latvian Free Trade Union Association. Discussions are currently under way in Parliament with the Latvian Employers' Confederation and the Latvian Free Trade Union Association about increasing the maximum number of overtime hours in a calendar year. It is felt necessary to provide more flexible working-time arrangements and guarantee normal working in sectors experiencing problems with the number of workers.

194. In *Senegal*, in addition to general policies aimed at reducing hours of work, certain measures have been adopted with a view to extending hours of work where so required to maintain or increase output levels.

#### V. Countries where no specific policies or measures have been adopted

195. In a number of countries there are currently no formal policies or specific measures concerning hours of work. This is the case in *Bahrain*, *Côte d'Ivoire*, *Honduras*, *Kenya*, *Malaysia*, *Nigeria* and *Papua New Guinea*.

196. In *Mauritius*, according to the Government, there are at present no policies or measures to reduce or extend hours of work. However, within the framework of the current revision of the Labour Act, consideration is being given to the inclusion of a provision relating to the 45-hour normal working week for which the hours can also be distributed over five days (they are currently distributed over six days only). In *Suriname*, the Policy Note of the Ministry of Labour, Technological Development and Environment refers to the need to revise the legislation regarding hours of work. In *Thailand*, even though there is no formal policy concerning hours of work, measures have been implemented through projects or activities to induce establishments to reduce hours of work or change their arrangement on a voluntary basis.

197. In several other countries, while no formal policies have been adopted at the governmental level, this matter has been left to social partners, who have been able to agree upon the measures they deem appropriate. For example, in *El Salvador*, there are no special policies or measures concerning hours of work at the governmental level other than the standards prescribed by law. Nevertheless, in practice, there are bilateral agreements between workers and employers and collective labour agreements in which changes to the working hours are established in accordance with the needs of each enterprise. The Government also emphasized that the market conditions have caused

measures to be adopted aimed at increasing flexibility in various areas of labour relations, especially in the distribution of hours of work. In *Latvia*, as emphasized by the Government, working time cannot exceed 40 hours a week under the Labour Code.<sup>14</sup> The Government points out that this provision was agreed to by the social partners and the issue is not currently being raised as to whether working time should be prolonged or shortened. In *Sweden*, in the opinion of the Government, working hours matters should be dealt with primarily by the labour market participants, although the legislation should guarantee a certain level of protection for employees. Nevertheless, the current Government's coalition partners, namely the Left Party and the Green Party, advocate a statutory reduction of working hours. An experimental scheme for reducing working hours has been agreed to by the Social Democrats and the coalition partners.

## VI. Concluding comments

198. The above information concerning existing policies and measures concerning hours of work in various countries throughout the world reveals that policies aimed at the numerical reduction of normal hours of work as such are no longer the dominant concern. Depending on the specific economic and social conditions of a country, the respective governments are making use of the reduction or extension, or changing in working-time arrangements as an important tool for achieving a variety of goals, including job creation, achieving a balance between work and the family life of employees, and increasing output.

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<sup>14</sup> See section 131(1) of the Labour Code of Latvia of 20 June 2001. Available at: <http://www.ttc.lv/New/lv/tulkojumi/E0223.doc>.

## Chapter VI

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### Working-time arrangements

#### I. The standard working-time schedule

199. Although under the Conventions, the standard working-time schedule<sup>1</sup> is an eight-hour day and a 48-hour week, in a certain number of countries the standard arrangement is an eight-hour day and a 40-hour week. For example, in *Australia*, at the level of the Commonwealth the standard working-time schedule for the majority of full-time employees is between 38 and 40 hours a week. In *China*, the standard working schedule is eight hours a day and 40 hours a week. This is also the case in the *Central African Republic*, *Côte d'Ivoire*, *Gabon* and *Slovenia*.

200. In a number of other countries, the standard working-time schedule is an eight-hour day and a 44-hours week. This is the case, for example, in *Brazil*, *Honduras* and *Mexico*.

201. In other countries, there is no standard working-time schedule. This is the case, for example, in *Estonia*, *Lithuania*, *Sweden* and the *United States*.

202. Even though the overall length of the working day and working week may be similar in the various countries, there are still significant differences between them in the distribution of working hours over the day. For example, in *Brazil*, generally, hours of work in establishments are from 8 a.m. to 6 p.m., with a break from 12 p.m. to 2 p.m. for lunch and rest. In *Bangladesh*, the prevailing standard working hours are from 8 a.m. to 5 p.m. with a rest period of one hour within this period. In *Dominica*, the hours of work are from 8 a.m. to 1 p.m. and from 2 p.m. to 4 p.m. In *Namibia*, the hours of work are from 8 a.m. to 5 p.m. from Monday to Friday and from 8 a.m. to 1 p.m. on Saturday.

#### II. Working-time arrangements which differ from the standard full-time working week

##### A. Part-time work

203. Part-time work is the method of organizing working time when work is performed less than a normal full-time schedule.<sup>2</sup> According to the reports received, part-time working arrangements are in use in *Algeria*, *Belarus*, *Belgium*, *Botswana*, *Brazil*, *Canada*, *China*, *Côte d'Ivoire*, *Croatia*, *Czech Republic*, *Denmark*, *El Salvador*, *Estonia*, *France*, *Honduras*, *Hungary*, *India*, *Italy*, *Jordan*, *Lesotho*, *Mauritius*, *Mexico*, *Republic*

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<sup>1</sup> The term “standard working-time schedule” is used in the English version of the report form for this survey.

<sup>2</sup> ILO: *Conditions of work digest: Working time around the world*, Vol. 14 (1995), p. 14.

of Moldova, Niger, Poland, Portugal, Senegal, Singapore, Slovenia, Switzerland, Tunisia, Turkey, United Arab Emirates, United States and Zimbabwe.

204. The specific forms of the legal regulation of part-time work may vary significantly from one country to the other. In some countries, part-time work is regulated by the Labour Code or another labour act of general scope. This is the case in the *Republic of Moldova*,<sup>3</sup> *Poland*,<sup>4</sup> *Portugal*,<sup>5</sup> *Russian Federation*,<sup>6</sup> *Slovenia*<sup>7</sup> and *Tunisia*.<sup>8</sup> It may also be covered by special regulations or guidelines. For example, in *China*, part-time work is governed by a policy document issued by the Ministry of Labour and Social Security, entitled “Views on some questions relating to part-time employment”,<sup>9</sup> whereas in *Singapore* it is governed by special Regulations,<sup>10</sup> and in the *United Arab Emirates* by decisions and decrees of the Ministry of Labour.<sup>11</sup>

205. For example, in *Estonia* the statutory duration of working time is eight hours a day and 40 hours a week,<sup>12</sup> and the legislation defines part-time work as working time determined by an employer which is shorter than the established standard of working time and which is applied by agreement between an employee and an employer.<sup>13</sup>

206. Part-time working arrangements should not pose particular problems from the point of view of compliance with the requirements of Conventions Nos. 1 and 30 provided that the normal duration of daily and weekly work in a particular country does not exceed the limits prescribed by the Conventions. Otherwise, it could result in a situation when work less than full schedule still exceeds the “normal” limits established by the Conventions.

## B. Compressed work-weeks

207. Compressed work-weeks are a method of organizing working time under which normal weekly hours of work are scheduled over fewer days. If weekend work is required, average weekly hours of work may be shortened in compensation. To cover extra days of work, rotation schedules may be adapted or part-time workers hired.<sup>14</sup> According to the reports received, arrangements of this type are in use in *Belgium*, *Canada*, *Estonia*, *Republic of Moldova*, *Philippines*, *Poland*, *Portugal*, *South Africa*, *Switzerland*, *Turkey* and the *United States*.

<sup>3</sup> Section 97 of the Labour Code.

<sup>4</sup> Section 29(2) of the Labour Code.

<sup>5</sup> Section 180 of the Labour Code.

<sup>6</sup> Section 93 of the Labour Code.

<sup>7</sup> Section 64 of the Employment Act.

<sup>8</sup> Section 94-2 of the Labour Code.

<sup>9</sup> *Views on some questions relating to part-time employment*, issued by the Ministry of Labour and Social Security on 30 May 2003. Printed separately.

<sup>10</sup> Employment (Part-Time Employees) Regulations, 1986 (No. S 421). *Government Gazette, Subsidiary Legislation Supplement*, 20 Sep. 1996, No. 48, pp. 2849-2857.

<sup>11</sup> Ministerial Decision No. 1/49 of 1980 on part-time work. Printed separately. Ministerial Decree No. 401 of 1997 on temporary and part-time work. Printed separately.

<sup>12</sup> Section 4(1) of the Working and Rest Time Act.

<sup>13</sup> Section 6 of the Working and Rest Time Act.

<sup>14</sup> ILO: *Conditions of work digest: Working time around the world*, op. cit., p. 13.

208. For example, in *Belgium*, there are compressed work-week arrangements which provide for work during four days of the week or for work exclusively during the weekend. In the latter case, the work is performed by two teams in 12-hour shifts. Similar arrangements exist in *Poland*, where the compressed work-week arrangements provide for a maximum of 12 hours per day.<sup>15</sup> In *Portugal*, the compression of work into fewer working days is possible subject to compliance with the limit of eight normal working hours in a day.<sup>16</sup> According to the Government, the practice of five working days a week is common, although less than five working days a week is only possible under the current working-time provisions if the weekly length of work does not exceed 32 hours (in the case of a four-day working week).

209. Special attention would have to be paid to ensure that the implementation of compressed work-week arrangements does not contravene standards prescribed by Conventions Nos. 1 and 30.

210. In order to be compatible with Convention No. 1, compressed work-week arrangements in industrial undertakings should simultaneously satisfy the following two conditions:

- (i) the arrangement provides for daily work not exceeding nine hours under the condition that the hours of work on one or more days of the week are less than eight;<sup>17</sup>
- (ii) the arrangement is approved by the competent public authority or an agreement between employers' and workers' organizations or representatives.<sup>18</sup>

211. As a result, the following compressed work-week arrangements in industrial undertakings would seem to be incompatible with the requirements of Convention No. 1: (i) arrangements providing for daily work above the nine-hour ceiling; and (ii) arrangements unilaterally introduced by the employer without the formal approval of the competent public authority or agreement between employers' and workers' organizations or representatives.

212. In order to be compatible with Convention No. 30, compressed work-weeks in commerce and offices should ensure that the daily working day does not exceed ten hours.<sup>19</sup> Unlike Convention No. 1, under the provisions of Convention No. 30, such arrangements can be introduced without the formal approval of the competent public authority or an agreement between employers' and workers' organizations or representatives.<sup>20</sup>

213. It appears that in many cases compressed work-weeks are likely to be in contravention of the requirements of Convention No. 1, Convention No. 30, or both, in particular due to the number of daily hours which are typically worked under these arrangements. For example, compressed work-week arrangements, where work during the weekend is performed by two teams in 12-hour shifts, would appear to be

<sup>15</sup> Section 143 of the Labour Code.

<sup>16</sup> Section 163(1) of the Labour Code.

<sup>17</sup> See Article 2(b) of Convention No. 1.

<sup>18</sup> See Article 2(b) of Convention No. 1.

<sup>19</sup> Article 4 of Convention No. 30.

<sup>20</sup> Article 4 of Convention No. 30.

incompatible with the requirements of both Conventions, because the daily work may exceed the nine-hour and ten-hour limits prescribed by them.

### C. Staggered working-time arrangements

214. Staggered hours are used to organize working time when workers or groups of workers start and finish work at slightly different, but fixed times.<sup>21</sup> A staggered hours system may allow workers discretion, within certain limits, in fixing the time that they start and finish work. However, once these starting and finishing times have been chosen (or fixed by the employer), they remain unchanged. Staggered lunch and rest breaks may also be introduced.<sup>22</sup>

215. According to the reports received, this working-time arrangement is in use in *Belgium, Canada, El Salvador, Estonia, Mexico, Niger, Poland, Singapore, Switzerland and the United States*.

216. The introduction of staggered hours should not pose any particular problems regarding compliance with the requirements of Conventions Nos. 1 and 30, on condition that the duration of daily and weekly work under this arrangement does not exceed the limits prescribed by the Conventions.

### D. Variable daily shift lengths

217. Variable daily shift length is a method of arranging working hours under which the duration of shifts varies from day to day.<sup>23</sup> According to the reports received, this working-time arrangement is in use in *Brazil, El Salvador, Estonia, Mexico, Switzerland, Turkey and the United States*.

218. The implementation of variable daily shift arrangements may pose certain problems of compatibility with Conventions Nos. 1 and 30.

219. In order to be compatible with Convention No. 1, variable daily shift arrangements in industrial undertakings should ensure that the average number of hours over a period of three weeks or less does not exceed eight per day and 48 per week.<sup>24</sup> Should the employer wish to use a period longer than three weeks as a basis for calculation, this may be done only through an agreement between workers' and employers' organizations which is transformed into regulations by the government to which the agreement is submitted.<sup>25</sup> Furthermore, the average number of hours worked per week, over the number of weeks covered by any such agreement, should not exceed 48.<sup>26</sup>

220. Therefore, the following variable daily shift arrangements in industrial undertakings would seem to be incompatible with the requirements of Convention No. 1: (i) arrangements where the average number of working hours over a period of three weeks exceeds eight a day and 48 per week; (ii) arrangements using a period of more than three weeks as a basis for calculation, if they have not been approved by an

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<sup>21</sup> ILO: *Conditions of work digest: Working time around the world*, op. cit., p. 13.

<sup>22</sup> ILO: Draft code of practice on working time (MEWT/1993/I), ILO, Geneva, 1993, para. 3.1.1.

<sup>23</sup> ILO: *Conditions of work digest: Working time around the world*, op. cit., p. 13.

<sup>24</sup> Article 2(c) of Convention No. 1.

<sup>25</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>26</sup> Article 5, paragraph 2, of Convention No. 1.

agreement transformed into regulations by the government; and (iii) arrangements which have been approved by an agreement, transformed into regulations by the government, where the average number of hours worked per week exceeds 48.

221. In order to be compatible with Convention No. 30, variable daily shift length arrangements in commerce and offices should ensure that daily working hours do not exceed ten.<sup>27</sup> Where such arrangements use a period of one week as a basis for calculation, the making of regulations by the public authority is not required.<sup>28</sup> Should the employer wish to use a period longer than a week as a basis for calculation, under Convention No. 30 this may be done only in “exceptional cases” where the circumstances in which the work has to be carried out make the limits prescribed by Articles 3 and 4 inapplicable.<sup>29</sup> Furthermore, any such arrangement can be introduced only through regulations made by the public authority after consultation with the workers’ and employers’ organizations. Unlike Convention No. 1, no prior agreement between workers’ and employers’ organizations is required by Convention No. 30, but only consultations with them.<sup>30</sup> In accordance with the provisions of Convention No. 30, the average hours of work over the number of weeks included in the period must not exceed 48 hours in the week and the hours of work in any day shall not exceed ten hours.<sup>31</sup>

222. The following variable arrangements in commerce and offices would seem to be incompatible with the requirements of Convention No. 30: (i) arrangements using a week as a basis for calculation which provide for daily work in excess of ten hours; (ii) arrangements exceeding the hourly limitations in Articles 3 and 4 where it is not proved that the circumstances make the Articles inapplicable; (iii) arrangements using a period longer than a week as a basis for calculation which have not been made in the form of regulations of the public authority after consultation with the workers’ and employers’ organizations; and (iv) arrangements made in the form of regulations by the public authority after the required consultations where the average hours of work exceed 48 in any week or the hours of work in any day exceed ten.

## E. Annualized working hours

223. Annualized working hours are a method of calculating of working hours whereby workers’ hours are defined on an annual, rather than a weekly basis. Provided that the minimum and maximum limits on normal daily and weekly hours are respected, no overtime premium is payable. The use of this method permits the adaptation of working time to seasonal or other variations in supply or demand. Wages are often paid on an average basis throughout the year. Annualized working hours schemes are also used in connection with shift work.<sup>32</sup> According to the reports received, this method is in use in *Belgium, Germany, Greece, Poland and Tunisia*.

224. For example, in *Greece*, in undertakings where contractual working time of 40 hours per week is applied, it may be determined by means of enterprise agreements,

<sup>27</sup> Article 4 of Convention No. 30.

<sup>28</sup> Article 4 of Convention No. 30.

<sup>29</sup> Article 6 of Convention No. 30.

<sup>30</sup> GB. 258/ESP/6/6, para. 92.

<sup>31</sup> Article 6 of Convention No. 30.

<sup>32</sup> ILO: *Conditions of work digest: Working time around the world*, op. cit., p. 14.



agreements between the employer and the trade union of the enterprise, or agreements between the employer and the works council that 138 hours out of the total annual working hours may be distributed by increasing the number of working hours over a certain period and by decreasing them over another period, provided that the existing provisions on the mandatory rest of workers, as well as the maximum limit on average weekly working hours, including overtime work, are respected. In this case, the maximum average weekly length of working hours within a year (the reference period) must not exceed 38 hours, excluding overtime. Periods of annual convalescent leave are not counted towards the calculation of the annual average.<sup>33</sup>

225. The Government of *Switzerland* points out that the annualized working hours arrangement is legal in Switzerland only to the extent that it respects the maximum weekly duration of work. As a result, any arrangement that does not respect this limit raises legal problems. Since working hours cannot be freely spread over the year, it would not be precise to speak of the “annualization of working hours” in the case of Switzerland.

226. The implementation of annualized working hours schemes may in certain cases be in contradiction with certain of the standards prescribed by Conventions Nos. 1 and 30.

227. In order to be compatible with Convention No.1, any annualized working hours arrangements in industrial undertakings should simultaneously satisfy the following three conditions:

- (i) the arrangement is introduced in an “exceptional case” where it is recognized that the eight-hour and 48-hour limits cannot be applied;<sup>34</sup>
- (ii) the arrangement is introduced through an agreement between workers’ and employers’ organizations transformed into regulations by the government, to which this agreement is submitted;<sup>35</sup> and
- (iii) the average number of hours worked per week over the number of weeks covered by any such agreement does not exceed 48.<sup>36</sup>

228. Therefore, the following annualized working hours arrangements in industrial undertakings would seem to be incompatible with the requirements of Convention No. 1: (i) arrangements exceeding the hourly limitations in Article 2 where it is not proved that the circumstances make the Article inapplicable; (ii) arrangements not approved by an agreement transformed into the regulations by the government; and (iii) arrangements where the average number of hours worked per week over the number of weeks covered by any such agreement exceeds 48 hours.

229. In order to be compatible with Convention No. 30, any annualized working hours arrangements in commerce and offices should simultaneously satisfy the following three conditions:

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<sup>33</sup> Section 5 of Act 2874/2000 on the arrangement of working time.

<sup>34</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>35</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>36</sup> Article 5, paragraph 2, of Convention No. 1.

- (i) the arrangement is introduced in an “exceptional case” in which the circumstances in which the work has to be carried out make the limits prescribed by Articles 3 and 4 inapplicable;<sup>37</sup>
- (ii) the average hours of work over the number of weeks included in the period should not exceed 48 hours in the week and the hours of work in any day should not exceed ten hours;<sup>38</sup> and
- (iii) the arrangement is introduced through regulations made by the public authority after consultations with the workers’ and employer’ organizations (no prior agreement between the workers’ and employers’ organizations is required, only consultations).<sup>39</sup>

230. Therefore, the following annualized working-time arrangements in commerce and offices would seem to be incompatible with the requirements of Convention No. 30: (i) arrangements exceeding the hourly limitations in Articles 3 and 4 where it is not proved that the circumstances make the Articles inapplicable; (ii) arrangements where average hours of work exceed 48 hours in the week; (iii) arrangements where the hours of work in any day exceed ten hours; and (iv) arrangements which have not been made in the form of regulations of the public authority after consultation with the workers’ and employers’ organizations.

## F. Flexitime

231. Flexitime arrangements are used to allow workers to schedule their own hours of work within specific limits, although workers are normally required to be present during specified core periods under such arrangements.<sup>40</sup> According to the reports received, arrangements of this type are in use in *Belarus, Botswana, Canada, Czech Republic, El Salvador, Finland, Italy, Japan, Mexico, Poland, Portugal, Slovenia, Switzerland* and the *United States*.

232. In *Japan*, under the existing flexitime system, the starting and ending time for work is left to the worker’s own decision.<sup>41</sup> Employees determine their working hours for a particular day (or week) within a fixed number of working hours in a week (or month), laid down in a written agreement between an employer and workers. The Government points out that, since this is a system in which the starting and ending time is left to the worker’s own discretion, there are no statutory working hours per day or per week and therefore no upper limits. Nevertheless, the hours worked in excess of the fixed number are considered to be overtime work. According to the Government, it is likely that there would be a conflict between this system and the requirements of Conventions Nos. 1 and 30, since both of them prescribe an upper limit on the daily hours of work.

233. The possibility of introducing flexitime arrangements is currently under consideration in *Jamaica*, but has not yet been made into law.

<sup>37</sup> Article 6 of Convention No. 30.

<sup>38</sup> Article 6 of Convention No. 30.

<sup>39</sup> Article 8 of Convention No. 30.

<sup>40</sup> ILO: *Conditions of work digest: Working time around the world*, op. cit., p. 13.

<sup>41</sup> Section 32(2) of the Labour Standards Law.

234. In order to be compatible with Convention No. 1, flexitime arrangements in industrial undertakings, which use a period of one week as a basis for the calculation of working hours, should simultaneously satisfy the following two conditions:

- (i) the arrangement provides for daily working hours not exceeding nine hours, on condition that the hours of work on one or more days of the week are less than eight;<sup>42</sup> and
- (ii) the introduction of the arrangement is approved by the competent public authority or an agreement between employers' and workers' organizations or representatives.<sup>43</sup>

235. In cases where a period longer than a week is used for the calculation of working hours, to be in compliance with Convention No. 1 a flexitime arrangement should simultaneously satisfy the following three conditions:

- (i) the arrangement is introduced in an "exceptional case", in which it is recognized that the eight-hour and 48-hour limits could not be applied;<sup>44</sup>
- (ii) the arrangement is introduced through an agreement between workers' and employers' organizations transformed into regulations by the Government to which the agreement is submitted;<sup>45</sup> and
- (iii) the average number of hours worked per week, over the number of weeks covered by any such agreement, does not exceed 48.<sup>46</sup>

236. Therefore, the following flexitime arrangements in industrial undertakings would seem to be incompatible with the requirements of Convention No. 1: (i) arrangements exceeding the hourly limitations in Article 2 where it is not proved that the circumstances make the Article inapplicable; (ii) arrangements not approved by an agreement transformed into the regulations by the government; and (iii) arrangements where the average number of hours worked per week, over the number of weeks covered by any such agreement, exceeds 48 hours.

237. In order to be compatible with Convention No. 30, flexitime arrangements in commerce and offices which use a period of one week as a basis for the calculation of working hours, should ensure that daily hours of work do not exceed ten hours.<sup>47</sup> In such cases, the making of regulations by the public authority is not required.<sup>48</sup>

238. If a period longer than a week is used for the calculation of hours of work, to be compatible with Convention No. 30 a flexitime arrangement should simultaneously satisfy the following three conditions:

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<sup>42</sup> Article 2(b) of Convention No. 1.

<sup>43</sup> Article 2(b) of Convention No. 1.

<sup>44</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>45</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>46</sup> Article 5, paragraph 2, of Convention No. 1.

<sup>47</sup> Article 4 of Convention No. 30.

<sup>48</sup> Article 4 of Convention No. 30.

- (i) the arrangement is introduced in an “exceptional case”, where the circumstances in which the work has to be carried out make the provisions of Articles 3 and 4 inapplicable;<sup>49</sup>
- (ii) the average hours of work over the number of weeks included in the period do not exceed 48 hours in the week and the hours of work in any day do not exceed ten hours;<sup>50</sup> and
- (iii) the arrangement is introduced through regulations made by the public authority after consultations with the workers’ and employer’ organizations (no prior agreement between workers’ and employers’ organizations is required by Convention No. 30, only consultations).<sup>51</sup>

239. It appears that the following flexitime arrangements in commerce and offices would seem to be incompatible with the requirements of Convention No. 30: (i) arrangements exceeding the hourly limitations in Articles 3 and 4 where it is not proved that the circumstances make the Articles inapplicable; (ii) arrangements in which average hours of work exceed 48 hours in the week; (iii) arrangements in which the hours of work in any day exceed ten hours; and (iv) arrangements which have not been made in the form of regulations by the public authority after consultations with workers’ and employers’ organizations.

## G. On-call work

240. On-call work has been discussed in paragraphs 48-51 and 54-55 of this General Survey. According to the reports received, systems of on-call work are in use in *Estonia, Finland, Germany, Italy, Mexico, Switzerland, Turkey* and the *United States*.

241. For example, in *Finland*, an employer and an employee can agree that the employee is required to remain at home or to be otherwise available to be called upon to work when necessary. Standby time is not included in working hours. However, according to the Finnish legislation, the length and frequency of standby time must not excessively disrupt the employee’s free time.<sup>52</sup> Under these provisions, when they agree on standby arrangements, the employer and employee must also agree on remuneration for it. The restrictions imposed by standby on the employee’s use of free time must be taken into consideration in the amount of the remuneration. At least half of the time the employee spends on standby at home must be remunerated either in pay or by corresponding free time during regular working hours.<sup>53</sup> If standby is necessary due to the nature of the work and for extremely compelling reasons, a civil servant or an official in a public corporation cannot refuse to do it.<sup>54</sup>

242. The practice in the *United States* and in the European Union, as discussed in paragraphs 48-51 and 54-55, as well as the national legislation and practice, suggest variations in approaches taken to on-call time, which in part is reflective of the characterization of such time in particular circumstances. As previously discussed in

<sup>49</sup> Article 6 of Convention No. 30.

<sup>50</sup> Article 6 of Convention No. 30.

<sup>51</sup> Article 8 of Convention No. 30.

<sup>52</sup> Section 5(1) of the Working Hours Act.

<sup>53</sup> Section 5(2) of the Working Hours Act.

<sup>54</sup> Section 5(3) of the Working Hours Act.

paragraph 51, whether such arrangements would be incompatible with the Convention depends on the extent to which the worker is restricted from engaging in personal activities during the time of “on-call”, such that the worker could be regarded as being at the disposal of the employer. However, if the hours of on-call time, even if counted, would fall below the limitations set out in the Conventions on the maximum duration of daily and weekly hours of work, there is no contravention of the Convention.

### III. The ability of workers to influence the length and arrangement of their working hours

243. In a number of countries, workers can influence the length and arrangement of their working hours through the use of various arrangements, mostly for family-related reasons. For example, in *France*, workers may request a reduction in the length of work for one or several periods of at least a week to meet their family responsibilities.<sup>55</sup> In *Portugal*, the Labour Code specifically prescribes that collective agreements shall give preference to workers with family responsibilities for admission to part-time work.<sup>56</sup> The Labour Code also provides for the possibility for a worker with a child under the age of 12 years or a disabled child to work part time.<sup>57</sup>

244. Employees may also request part-time work for family related reasons in *Algeria*, *Finland* and *Slovenia*.<sup>58</sup>

245. In *Germany*, under the Part-Time and Limited Duration Work Act, workers can request a reduction in agreed working hours and a change in the distribution of working time if they have been employed for more than six months,<sup>59</sup> provided that the employer has more than 15 workers (not counting trainees). The entitlement to work part-time under the Act is not restricted to specific grounds. Employees can also request a reduction in working hours in order to meet family obligations (childcare, nursing of close relatives).

246. In *Mauritius*, the workers may shift from full-time to part-time employment for a specified period of time and revert back to full-time employment thereafter.<sup>60</sup>

247. In some countries, even though the workers cannot demand changes in the length and arrangement of their working hours, they are still entitled to additional breaks, including those for breastfeeding in case of female employees, or for extended periods of absence from work for family and child-related reasons. This is the case in *Belarus*,<sup>61</sup> *Brazil*,<sup>62</sup> *Canada*, *Costa Rica*,<sup>63</sup> *Estonia*, *Grenada*,<sup>64</sup>

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<sup>55</sup> Section L 212-4-7 of the Labour Code.

<sup>56</sup> Section 183(1) of the Labour Code.

<sup>57</sup> Sections 45(1) and 45(2) of the Labour Code.

<sup>58</sup> Section 191 of the Employment Act.

<sup>59</sup> Section 8 of the Part-Time and Limited Duration Work Act of 21 December 2000. *Teilzeit- und Befristungsgesetz vom 21.12.2000* (BGBl. I, S. 1966).

<sup>60</sup> Section 47G of the Labour Act.

<sup>61</sup> Section 267 of the Labour Code.

<sup>62</sup> Section 396 of the Consolidation of Labour Laws.

<sup>63</sup> Section 97 of the Labour Code.

<sup>64</sup> Section 72 of the Employment Act.

*Hungary,*<sup>65</sup> *Madagascar,*<sup>66</sup> *Oman,*<sup>67</sup> *Poland,*<sup>68</sup> *South Africa, Sweden, Switzerland, Turkey,*<sup>69</sup> *United Arab Emirates and Viet Nam.*

248. In other countries, according to the reports received, provision is made in the legislation for changes in the length and arrangement of working hours to be made through an individual or collective agreement, and the reasons for these changes are not limited to family-related reasons. This is the case in *Bahrain, Botswana, Brazil, Costa Rica, Greece, Indonesia, Mexico, Poland, United States and Zimbabwe.*

249. Finally, in certain countries, according to the reports received, the legislation does not address this matter at all. This is the case in *China, Dominica, Fiji, Kenya, Papua New Guinea, Qatar, Suriname and Thailand.*

#### IV. Impact of existing working-time arrangements on the continued relevance of Conventions Nos. 1 and 30

250. A number of governments indicated in their reports that the flexible working-time arrangements existing in their countries make the provisions of Conventions Nos. 1 and 30 less relevant. For example, the Government of *Australia* notes that the flexibility of agreement-making under the federal workplace relations system has allowed a range of innovative arrangements to be agreed upon between employers and employees at the workplace level in respect to working hours. These arrangements, together with the 38-hour working week set out in the National Wage Fixation Principles, demonstrate the declining relevance of Conventions Nos. 1 and 30.

251. The Government of *Canada* points out that the provisions of Conventions Nos. 1 and 30 are too restrictive to meet the modern day needs of employees for flexible and varied work arrangements, the requirements of employers and today's dynamic and global economy. While the underlying principles of ensuring protection for workers are still relevant and important, the inflexible approach to the regulation of working time embodied in these instruments is no longer appropriate or desirable.

252. The Government of *Germany* indicates that many existing flexible working-time arrangements are likely not to be in conformity with the very narrow framework established by the Conventions for averaging working hours. In this respect, the Government refers in particular to working-time accounts, which have been established under the terms of collective agreements and are in widespread use in manufacturing enterprises, as well as in commerce and offices, and which allow working hours to be averaged out over periods of weeks, months or even over an entire year.

253. The Government of *Japan* indicates that, if Conventions Nos. 1 and 30 were to apply in Japan, working under the flexitime system would be likely to be affected. The Government points out that under the system, the starting and ending time of work is left at the discretion of workers and that limitations on the hours of work per day do not therefore apply, whereas under Conventions Nos. 1 and 30 the upper limits on the hours

<sup>65</sup> Section 138 of the Labour Code.

<sup>66</sup> Sections 25(4), 99 and 111 of the Labour Code.

<sup>67</sup> Sections 144 and 145 of the Labour Code.

<sup>68</sup> Section 187 of the Labour Code.

<sup>69</sup> Section 74 of the Labour Act.

of work per day are nine or ten hours. According to the Government, it is therefore likely that there would be a conflict.

254. The Government of *Singapore* points out that, given the nature of flexible working arrangements, which differ from the traditional workplace centred agreements for evenly distributed daily/weekly working hours, a shift towards such non-traditional working arrangements would have an impact on the continuing relevance of the present ILO instruments. The limits on working hours stipulated in the instruments may need to be made more flexible so as to accommodate variations in working schedules.

255. The Government of *Sweden* indicates that, due to the need for flexible working hours, the Conventions are not relevant.

## V. Concluding comments

256. The analysis reveals that the restrictions imposed by the Conventions on the maximum duration of daily and weekly working hours, as well as on the averaging of working hours, could prevent the implementation of modern flexible working-time arrangements. As previously indicated, for example, the compressed work-week arrangements where work during the weekend is performed by two teams in 12-hour shifts, would appear to be incompatible with the requirements of both Conventions. A similar problem may be posed by a flexitime system, which does not prescribe an upper limit on the daily hours of work. The above information would also suggest that these arrangements would pose problems for the ratification of Conventions Nos. 1 and 30 in those countries which so far have not ratified them.

257. Additional problems of compatibility with the provisions of the Conventions also arise due to the fact that in an increasing number of countries flexible working-time arrangements are introduced at the level of individual enterprises, whereas under the provisions of the Conventions this can normally only be done through regulations made by the competent authority.

## Chapter VII

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### Measures of enforcement

#### I. Types of enforcement measures

258. In addition to substantive provisions prescribing standards of hours of work, both Convention No. 1 and Convention No. 30 contain provisions aimed at the effective enforcement of these standards. It goes without saying that unless such enforcement is ensured, the aims of the instruments would remain unattainable. Both Conventions provide for the enforcement of their provisions through: (i) the notification of hours of work and rest;<sup>1</sup> (ii) the keeping of records;<sup>2</sup> and (iii) penalties.<sup>3</sup> In addition to that, under Convention No. 30, the necessary measures have to be taken to ensure adequate inspection.<sup>4</sup>

#### II. Notification of hours of work and rest

259. Under the terms of Convention No. 1, to facilitate the enforcement of its provisions, every employer must be required to notify by means of the posting of notices in conspicuous places in the works or other suitable place, or by such other method as may be approved by the government, the hours at which work begins and ends, and where work is carried on by shifts, the hours at which each shift begins and ends; these hours have to be so fixed<sup>5</sup> that the duration of the work must not exceed the limits prescribed by this Convention, and when so notified they shall not be changed except with such notice and in such manner as may be approved by the Government;<sup>6</sup> and to notify in the same way such rest intervals accorded during the period of work as are not reckoned as part of the working hours.<sup>7</sup> Similar obligations are placed on employers by Convention No. 30,<sup>8</sup> except for the absence of an obligation concerning the changing of hours.

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<sup>1</sup> Article 8, paragraphs 1(a) and 1(b), of Convention No. 1; Article 11, paragraphs 2(a) and 2(b), of Convention No. 30.

<sup>2</sup> Article 8, paragraph 1(c), of Convention No. 1; Article 11, paragraph 2(c), of Convention No. 30.

<sup>3</sup> Article 8, paragraph 2, of Convention No. 1; Article 11, paragraph 3, and Article 12 of Convention No. 30.

<sup>4</sup> Article 11, paragraph 1, of Convention No. 30.

<sup>5</sup> The responsibility of fixing hours of work is left to the employer subject, presumably, to the possibility that the matter may be regulated by custom or collective agreement. No approval by the competent authority is required. See *International Labour Code*, Vol. 1, article 242, footnote 212 (p. 210) (ILO, Geneva, 1952).

<sup>6</sup> Article 8, paragraph 1(a), of Convention No. 1.

<sup>7</sup> Article 8, paragraph 1(b), of Convention No. 1.

<sup>8</sup> Article 11, paragraph 2(b), of Convention No. 30.



260. Analysis of the reports received reveals a wide variety of methods of notification of hours of work, which are not limited to the posting of notices.

261. The method of the posting of notices itself is used in a number of countries. For example, in *Suriname*, the schedule should be posted, to the extent possible, in the place where the work is being carried out, and in such a way that it may easily be noted.<sup>9</sup> The schedule has to contain information on the beginning and end of daily working hours; the rest period and also rest days; and, in cases where work is carried out in shifts, the beginning and end of each shift and the names of the persons to whom this kind of working hours apply.<sup>10</sup> In practice, however, according to the Government, the Labour Inspection Service permits the use of timetables and schedules. In *Finland*, under the Working Hours Act, employers must display this Act, all rules and regulations issued under it and the derogations granted from it, as well as the working hours adjustment system and the work schedule at the workplace, for examination by their employees.<sup>11</sup>

262. The method of posting of notices is also used in *Algeria, Benin, Brazil, Gabon, Japan, Kenya, Madagascar, Mauritius, Niger, Panama, Portugal, Romania, Senegal, South Africa, Thailand, Tunisia, United Arab Emirates* and *Zimbabwe*.

263. A number of countries use methods of notification of hours of work other than the posting of notices. In *Germany*, the employer is required to make copies of the Hours of Work Act, relevant regulations and collective agreements, as well as relevant works or services agreements, which have to be made available for workers to consult. In *Hungary*, upon the conclusion of a work contract, the employer assumes a general obligation to provide information regarding, among other matters, the applicable working schedule.<sup>12</sup> In *Malta*, the Employment and Industrial Relations Act prescribes that on the engagement of any employee, the employer must explain to that employee the provisions of any recognized conditions of employment as may be applicable and must deliver to the employee any written statement about such conditions as may be prescribed.<sup>13</sup> In *Papua New Guinea*, all public servants are made aware of their number of working hours per day through the National General Orders governing the conduct of all public servants throughout the country. As far as private sector workers are concerned, the number of hours worked should be the same as the number of hours indicated and agreed upon in the company's policy on hours of work.

### III. Keeping of records

264. Under Convention No. 1, every employer is required to keep a record in the form prescribed by law or regulation in each country of all additional hours worked in pursuance of Articles 3 and 6 of the Convention.<sup>14</sup> Under the terms of Convention

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<sup>9</sup> Section 24(4) of the Labour Act.

<sup>10</sup> Section 24(3) of the Labour Act.

<sup>11</sup> Section 41 of the Working Hours Act.

<sup>12</sup> Section 76(7) of the Labour Code.

<sup>13</sup> Section 7 of the Employment and Industrial Relations Act.

<sup>14</sup> Article 8(c) of Convention No. 1. The additional hours are those that are not indicated on the notices posted, which define the normal hours of work of the establishment, and in particular those worked by virtue of the exception provided for in paragraph (b) of Article 6. See ILC: "Interpretation of a decision concerning the Hours of Work (Industry) Convention, 1919 (No. 1)", ILO, *Official Bulletin*, Vol. III, No. 13, p. 394 (1921). Available at: <http://www.ilo.org/ilolex/english/index.htm>.

No. 30, every employer is required to keep a record in the form prescribed by the competent authority of all additional hours of work performed in pursuance of paragraph 2 of Article 7 and of the payments made in respect thereof.<sup>15</sup> Unlike Convention No. 30, Convention No. 1 does not specifically require the keeping of records of the wages paid for additional hours of work.

265. Specific provisions requiring employers to keep records of additional hours can be found in the legislation of a number of countries. In *Sweden*, under the Working Hours Act, the employer has to maintain records in respect of on-call hours, overtime and additional hours. Employees are entitled, personally or through a representative, to inspect such records, as are trade union organizations representing employees at the workplace.<sup>16</sup> The Government, or the Swedish Work Environment Authority acting by authority granted by the Government, may issue regulations concerning the manner in which such records are to be maintained.<sup>17</sup>

266. The legislation also specifically requires employers to keep a record of hours of work in *Australia*,<sup>18</sup> *Canada*,<sup>19</sup> *Ethiopia*,<sup>20</sup> *Honduras*,<sup>21</sup> *Hungary*,<sup>22</sup> *India*,<sup>23</sup> *Japan*,<sup>24</sup> *Republic of Moldova*,<sup>25</sup> *Namibia*,<sup>26</sup> *Poland*,<sup>27</sup> *Romania*,<sup>28</sup> *United States*<sup>29</sup> and *Zimbabwe*.<sup>30</sup>

#### IV. Inspections

267. While Convention No. 1 does not contain a specific provision concerning inspection, Convention No. 30 explicitly requires ratifying Members to take the necessary measures to ensure adequate inspection.<sup>31</sup> Even though the Convention does not itself specify what these measures should be, guidance as to their nature can be

<sup>15</sup> Article 11, paragraph 2(c), of Convention No. 30.

<sup>16</sup> Section 11(1) of the Working Hours Act.

<sup>17</sup> Section 11(2) of the Working Hours Act.

<sup>18</sup> New South Wales: section 129 of the Industrial Relations Act 1996; Queensland: sections 266 and 267 of the Industrial Relations Act.

<sup>19</sup> Section 24 of the Canada Labour Standards Regulations.

<sup>20</sup> Section 66(4) of the Labour Proclamation.

<sup>21</sup> Section 335 of the Labour Code.

<sup>22</sup> Section 140/A(1) of the Labour Code.

<sup>23</sup> See, e.g., Rules 26, 26A to 26D of the Minimum Wages Act of Gujarat.

<sup>24</sup> Section 109 of the Labour Standards Law.

<sup>25</sup> Section 106 of the Labour Code.

<sup>26</sup> Section 4 of the Labour Act.

<sup>27</sup> Section 149(1) of the Labour Code; section 8 of the Regulation of the Ministry of Labour and Social Policy on the scope of documentation related to the employment relationship and employees' personal files to be kept by the employer, of 28 May 1996.

<sup>28</sup> Section 116 of the Labour Code.

<sup>29</sup> Section 11(c) of the Fair Labour Standards Act.

<sup>30</sup> Section 125 of the Labour Relations Act.

<sup>31</sup> Article 11, paragraph 1, of Convention No. 30.

obtained from the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection Recommendation, 1947 (No. 81).<sup>32</sup>

268. Control over the observance of provisions on working time is normally exercised through inspection visits conducted by the labour inspectorate. This is the case in *Australia, Bahrain, Belgium, Botswana, Brazil, Canada, China, Costa Rica, Côte d'Ivoire, Czech Republic, Dominica, El Salvador, Estonia, Fiji, Finland, France, Gabon, Germany, Greece, Grenada, Hungary, India, Italy, Jamaica, Japan, Jordan, Lesotho, Madagascar, Malaysia, Malta, Mauritania, Mauritius, Mexico, Republic of Moldova, Morocco, Niger, Nigeria, Oman, Philippines, Portugal, Qatar, Romania, Singapore, South Africa, Slovenia, Sudan, Suriname, Switzerland, Thailand, Tunisia, United Arab Emirates and Zimbabwe.*

269. In *Lithuania*, in addition to the supervision by the State Labour Inspectorate, control over the observance of working-time provisions is also exercised by trade unions. In *Tunisia*, the activities of the labour inspectorate in this area are supplemented by those of the police and the national guards.<sup>33</sup>

270. Finally, in the *United Kingdom*, enforcement responsibilities are split between a number of different authorities. The limits and health assessment requirements are enforced by the Health and Safety Executive (HSE), local authorities, the Civil Aviation Authority, the Vehicle and Operator Services Agency and the Maritime and Coastguard Agency. Entitlements to rest and leave are enforced through employment tribunals.

## V. Penalties

271. Under Convention No. 1, it is an offence against the law to employ any person outside the hours fixed in accordance with paragraph (a) of Article 8, or during the intervals fixed in accordance with paragraph (b) of the same Article.<sup>34</sup> Similarly, under Convention No. 30, it must be made an offence to employ any person outside the times at which hours of work (shifts) begin and end fixed in accordance with paragraph 2(a) or during the rest periods fixed in accordance with paragraph 2(b) of Article 11.<sup>35</sup> In addition, Convention No. 30 requires each ratifying Member to take the necessary measures in the form of penalties to ensure that the provisions of the Convention are enforced.<sup>36</sup>

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<sup>32</sup> For further details on the content of these instruments, see, e.g., ILC, 71st Session, *General Survey of the Reports on the Labour Inspection Convention (No. 81) and Recommendation (No. 81), the Labour Inspection (Mining and Transport) Recommendation (No. 82) and the Labour Inspection (Agriculture) Convention (No. 129) and Recommendation (No. 133)*. Report III (Part 4B), ILO, Geneva, 1985. Available at: <http://www.ilo.org/ilolex/english/surveyq.htm>.

<sup>33</sup> See section 178 of the Labour Code.

<sup>34</sup> Article 8, paragraph 2, of Convention No. 1.

<sup>35</sup> Article 11, paragraph 2(c), of Convention No. 30.

<sup>36</sup> Article 12 of Convention No. 30.

272. Penalties for the violation of provisions on hours of work are prescribed in the legislation of *Canada*,<sup>37</sup> *Costa Rica*,<sup>38</sup> *Denmark*,<sup>39</sup> *Estonia*,<sup>40</sup> *Ethiopia*,<sup>41</sup> *Finland*,<sup>42</sup> *India*,<sup>43</sup> *Italy*,<sup>44</sup> *Japan*,<sup>45</sup> *Mauritius*,<sup>46</sup> *Mexico*,<sup>47</sup> *Republic of Moldova*,<sup>48</sup> *Oman*,<sup>49</sup> *Sudan*,<sup>50</sup> *Suriname*,<sup>51</sup> *Sweden*,<sup>52</sup> *Thailand*,<sup>53</sup> *Tunisia*,<sup>54</sup> *Turkey*<sup>55</sup> and *Zimbabwe*.<sup>56</sup>

273. The penalties for the violation of provisions on hours of work prescribed by national legislation normally consist of financial penalties. The methods for the determination of the exact amount of these penalties vary from one country to another. The amount of the penalty is sometimes based on the minimum or basic salary. For example, in *Costa Rica*, the violation of provisions on hours of work may lead to a financial penalty ranging from one to 23 basic salaries.<sup>57</sup> The minimum monthly salary is also used as a basis for calculation of monetary penalties for the violation of provisions on hours of work in *Mexico*<sup>58</sup> and the *Republic of Moldova*.<sup>59</sup>

274. In other cases, the legislation prescribes penalties in fixed amounts. For example, in *Canada*, the maximum penalty for the violation of Part III of the Canada Labour Code dealing with the regulation of working hours is \$5,000.<sup>60</sup> Similarly, in Canada (British Columbia), the Director of the Employment Standards Branch may impose fines of \$500,

<sup>37</sup> See, e.g., sections 256-257 of the Canada Labour Code.

<sup>38</sup> Section 614 of the Labour Code.

<sup>39</sup> Section 82(2) of the Consolidation Act on the working environment.

<sup>40</sup> Section 27(6) of the Working and Rest Time Act.

<sup>41</sup> Section 179 of the Labour Proclamation.

<sup>42</sup> Section 42 of the Working Hours Act.

<sup>43</sup> See, e.g., section 40 of the Delhi Shops and Establishments Act, 1954.

<sup>44</sup> Section 19(2) of Legislative Decree No. 66/2003.

<sup>45</sup> Section 120 of the Labour Standards Law.

<sup>46</sup> Section 55 of the Labour Act.

<sup>47</sup> Section 994(I) of the Federal Labour Act.

<sup>48</sup> Section 41 of the Labour Code.

<sup>49</sup> Sections 154-156 of the Labour Code.

<sup>50</sup> Section 126 of the Labour Act.

<sup>51</sup> Section 29(1) of the Labour Act.

<sup>52</sup> Sections 23-27 of the Working Hours Act.

<sup>53</sup> Sections 145, 146, 150 and 151(1) of the Labour Protection Act.

<sup>54</sup> Sections 234, 236 and 237 of the Labour Code.

<sup>55</sup> Section 104 of the Labour Act.

<sup>56</sup> Section 125(7) of the Labour Relations Act.

<sup>57</sup> Section 614 of the Labour Code.

<sup>58</sup> The penalty can be imposed in an amount ranging from three to 315 times the minimum monthly salary as of the date and in the place where the violation has been committed (section 994(I) of the Federal Labour Act).

<sup>59</sup> Financial penalty in the amount of up to 75 minimum monthly wages (section 41 of the Labour Code).

<sup>60</sup> Section 256 of the Canada Labour Code.

\$2,500 or \$10,000 for contravening any provision of the Employment Standards Act or Regulation.<sup>61</sup>

275. In some instances, financial penalties can be supplemented by criminal law sanctions, including imprisonment. In *Denmark*, it is possible to impose such penalties on a person who causes work to be performed in violation of the rules of the Act on the working environment during rest periods and rest days, who supervises or inspects such work or performs work in violation of Part 9 of the Act. The penalty is a fine or imprisonment for up to 12 months; the penalty may be increased to two years of imprisonment if the violation is committed wilfully or through a gross negligence.<sup>62</sup> The breach of regulations on working hours may also give rise to criminal liability in *Finland*,<sup>63</sup> *Japan*,<sup>64</sup> *Mauritius*,<sup>65</sup> *Suriname*<sup>66</sup> and *Sweden*.<sup>67</sup>

## VI. Concluding comments

276. The information received shows that there are no serious problems as far as the existence of legislation on the enforcement of provisions on hours of work is concerned. A realistic approach to this matter cannot, however, avoid the issue of the effective application of these provisions. It seems obvious that their mere existence will not by itself achieve the goal of the efficient regulation of hours of work, unless the inspection services are sufficiently staffed, equipped and funded, so that they can adequately perform their duties and inspections are conducted regularly and thoroughly. Unfortunately, the information provided by governments and social partners sheds very little light on the manner in which the enforcement measures are applied in practice.

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<sup>61</sup> Section 29 of the Employment Standards Act.

<sup>62</sup> Section 82(2) of the Consolidation Act No. 784 on the working environment.

<sup>63</sup> Chapter 47, section 2, of the Penal Code. Penal Code (5787/95). Printed separately.

<sup>64</sup> Section 119 of the Labour Standards Law.

<sup>65</sup> Section 55 of the Labour Act.

<sup>66</sup> Section 29(1) of the Labour Act.

<sup>67</sup> Sections 23-25 of the Working Hours Act.

## Chapter VIII

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### Consultation of employers' and workers' organizations

#### I. Consultations required under the Conventions

277. Both Convention No. 1 and Convention No. 30 place a requirement on the competent authority in certain cases to consult the employers' and workers' organizations concerned ("vertical" consultations). Under both Conventions, such consultations are required prior to making regulations determining permanent and temporary exceptions to regular working hours.<sup>1</sup> In addition, under Convention No. 30, consultations with employers' and workers' organizations are required prior to making regulations which permit hours of work to be distributed over a period longer than the week.<sup>2</sup>

#### II. Existing national laws and practices

278. The adoption of laws and regulations governing hours of work is subject to consultation with employers' and workers' organizations in a number of countries. For example, in *Denmark*, according to the Government, there is a long tradition for involving the social partners in the drafting of the working environment legislation. The respective rules are usually discussed in a rules committee with the participation of members of the Working Environment Council, composed of the representatives of the social partners. The Government of the *United Kingdom* indicates that it would normally consult employers' and workers' organizations on any potential change to the Working Time Directive. Similarly, in *Viet Nam*, before promulgating the provisions relating to hours of work and rest, the Ministry of Labour, Disabled Persons and Social Affairs always holds consultations with the Viet Nam General Confederation of Labour (VGCL) and Viet Nam Chamber of Commerce and Industry (VCCI). Consultations on laws and regulations concerning hours of work are also held in *Bahrain, Malaysia, Poland* and *Romania*.

279. In other countries, the consultation of employers' and workers' organizations is required on all questions relating to the general application of hours of work. In *Brazil*, it is part of the mandate of the labour inspectorate to consult trade unions and employers on matters concerning workers' rights, including hours of work. In *Canada*, informal consultations take place at the federal level with the Labour Standards Client Consultation Committee, an ad hoc non-statutory committee, which is consulted on

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<sup>1</sup> Article 6, paragraph 2, of Convention No. 1; Articles 7 and 8 of Convention No. 30.

<sup>2</sup> Articles 6 and 8 of Convention No. 30.

labour standards issues, such as hours of work. The members of this informal committee include representatives of worker and employer organizations and the non-governmental organizations community. In *Kenya*, these questions are deliberated in Wages and Conditions of Employment Regulation Councils, which are tripartite in nature. Proper and full consideration is given among the social partners before any matters relating to hours of work are included in the orders issued by these Councils. In *Mauritius*, tripartite consultation takes place at the level of the Labour Advisory Board and the National Remuneration Board.

280. Consultations with employers' and workers' organizations on questions relating to the general application of hours of work are also held in *Benin, Fiji, India, Mexico* and *Suriname*.

281. In some countries, consultations on questions relating to the application of hours of work are required *between* employers' and workers' organizations ("horizontal" consultations). For example, in *Australia* (Western Australia), hours of work in awards and collective agreements are established through negotiation by unions and employers or employer organizations. In *Croatia*, the employer has to consult the workers' council, or if no such institution has been established, the shop steward about the distribution of hours of work. In *Gabon*, consultations are required on questions relating to the determination of the number of hours lost, making up hours of work lost and periods when this may be done, and the determination of undertakings or parts of undertakings where this may be done, as well as the determination of all construction sites and workshops where bad weather conditions may lead to the collective interruption of work.

282. In an increasing number of countries, issues relating to hours of work are dealt with by collective agreements.<sup>3</sup>

283. Consultations between employers' and workers' organizations on questions relating to hours of work are also held in *Algeria, Belarus, Canada, Central African Republic, Czech Republic, Finland, Germany, Honduras, Hungary, Indonesia, Italy, Japan, Lithuania, Malta, Nigeria, South Africa, Switzerland, Tunisia* and *Zimbabwe*.

### III. Concluding comments

284. The information received reveals that the requirements of the Conventions concerning consultations between the competent authority and employers' and workers' organizations in the process of adopting the relevant regulations have so far not been universally implemented. Such "vertical consultations" are held in several countries. Nevertheless, in only a few cases are such consultations required prior to making regulations determining permanent and temporary exceptions, or regulations allowing for hours of work to be distributed over a period longer than the week.

285. The information also reveals that employers' and workers' organizations have a much greater role in the process of the *implementation* of the respective regulations. Their participation in this process is usually channelled through mutual consultations or collective bargaining, which does not necessarily involve the participation of the competent authority. Such "horizontal" consultations are held either at the national level, the industry level or on the level of a specific enterprise.

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<sup>3</sup> See Appendix VI.

## Chapter IX

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### Prospects for ratification and implementation

#### I. Prospects for the ratification of Convention No. 1

286. According to the information received, a number of governments have considered ratifying Convention No. 1. In *Finland*, when the national ILO Committee examined the possibilities of ratifying Convention No. 1 in 1986, it did not recommend ratification for the time being, but instead recommended the ratification of the Forty-Hour Week Convention, 1935 (No. 47).<sup>1</sup> The possibility of ratifying Convention No. 1 has also been considered in *Bahrain, Jordan, Lesotho* and the *Philippines*. Nevertheless, it has not so far been ratified by any of these countries.

287. The Governments of *Croatia* and *El Salvador* indicate that they are currently exploring the possibility of ratifying Convention No. 1 and the Governments of *Indonesia, Mauritius, Oman* and *Tunisia* indicate that they will explore the possibility of ratifying Convention No. 1. The Government of *Morocco* indicates that ratifying Convention No. 1 is possible. Finally, some countries note that, even though the Convention has not been ratified, its principles or some of its provisions are implemented in the national legislation or practice. This is the case in *Dominica, Estonia, Fiji, Jordan, Madagascar, Republic of Moldova, Nigeria, Senegal* and *Viet Nam*.

#### II. Prospects for the ratification of Convention No. 30

288. According to the information received, the governments of *Bahrain, Jordan, Lesotho* and the *Philippines* have considered ratifying Convention No. 30. Nevertheless, it has not so far been ratified by any of these countries.

289. The Governments of *Croatia* and *El Salvador* indicate that they are currently exploring the possibility of ratifying Convention No. 30 and the governments of *Indonesia, Italy, Mauritius, Oman* and *Tunisia* indicate that they will explore the possibility of ratifying Convention No. 30. Finally, certain countries note that, even though the Convention has not been ratified, its principles or some of its provisions are implemented in the national legislation or practice. This is the case in *Bangladesh, Costa Rica, Dominica, Estonia, Fiji, Greece, Jordan, Madagascar, Republic of Moldova, Nigeria, Senegal* and *Viet Nam*.

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<sup>1</sup> Ratification of the Forty-Hour Week Convention, 1935 (No. 47), by Finland has been registered on 23 November 1989.



### III. Difficulties which may prevent or delay the ratification of the Conventions

#### A. Types of difficulties

290. The reports received reveal that the difficulties preventing or delaying the ratification of the Conventions may be subdivided into three categories relating to: (i) the general content of the instruments and the perception of them by governments and social partners; (ii) the specific legal problems posed by the ratification of the Conventions; and (iii) the internal political, economic and social difficulties of the respective countries.

#### B. General content of the instruments and the perception of them by governments and social partners

291. A number of governments expressed the view that the Conventions reflect an excessively rigid regulation of working time and, as such, cannot be ratified. For example, according to the Government of *Sweden*, such regulation needs to be more variable from one period to another than is allowed by the Conventions. Furthermore, in the Government's view, workers in Sweden are assured of good protection under the Working Hours Act, the Work Environment Act and the EC Working Time Directive.<sup>2</sup>

292. In the view of the Government of *Germany*, both Conventions contain provisions which are not compatible with today's demands for more flexible working hours. Similarly, the Government of *Poland* states that under the current legal regulation it is impossible to go back to the "fixed" working hours arrangements stipulated in the Conventions. In the Government's view, the ratification of the Conventions could hinder modern solutions, as they place too much emphasis on securing the interests of employees. It is for these reasons that the Government considers the ratification of the Conventions groundless and unfeasible. The Government of *Portugal* also notes that Convention No. 30 does not adequately reflect present-day needs relating to hours of work and the organization of working time.

293. Similar comments as to the outdated character or the lack of flexibility of the Conventions have also been made by *Australia*, *Brazil* and *Slovenia*.

294. The Government of *Mexico* concurs with the conclusions of the 1993 Meeting of Experts on Working Time that certain provisions of Convention No. 1 do not reflect some recent developments in working-time arrangements, and that the Convention should be revised to provide measures which ensure appropriate flexibility and adequate protection for workers.

295. The Government of *China* recalls that the Conventions were formulated a long time ago with their stipulation of a 48-hour week, whereas most countries today have opted for the system of the 40-hour week. Correspondingly, in the Government's view, they retain very limited guidance value for countries. In the same vein, *Norway* has already ratified the Forty-Hour Week Convention, 1935 (No. 47), and the question of ratifying Convention No. 1 does not therefore arise.

296. Finally, the Government of *Honduras* generally indicates that the provisions of both Conventions contradict the provisions of the Labour Code, as well as those of

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<sup>2</sup> For further details see *supra*, Introduction, para. 27.

collective and individual labour agreements, and cannot therefore be ratified at the present time.

## C. Specific legal problems posed by the ratification of the Conventions

### 1. *Legal obstacles to the ratification of both Conventions*

297. The reports received show that a general obstacle preventing countries from ratifying the Conventions consists of the restrictions placed on the number of hours by which the daily and weekly limits of hours of work may be exceeded.<sup>3</sup> For example, in *Hungary*, according to the National Association of Employers and Industrialists (MGYOSZ), Article 2(b) and Article 4 of Convention No. 1 are more rigid than the applicable Hungarian legislation, which itself tends to aggravate the competitiveness of companies. In the view of MGYOSZ, more flexible regulation is required to enhance competitiveness.

298. By the same token, some countries are prevented from ratifying Convention No. 30 by the ten-hour limitation on the hours of work in the day, imposed by Article 4 of the Convention. In the *Czech Republic*, under the terms of the Labour Code, the length of a single shift cannot exceed 12 hours.<sup>4</sup> According to the Government, the ratification of Convention No. 30 by the Czech Republic would therefore require a corresponding amendment of the Labour Code. Similarly, in *Canada*, the legislation in a number of jurisdictions does not impose absolute weekly or daily limits on the number of hours of work. In the Government's view, the restrictive approach to the regulation of working hours adopted in Convention No. 30 no longer meets the needs of either employers or workers.

299. The restrictions imposed by Article 4 of Convention No. 30 were one of the main reasons for the denunciation of this Convention by *Finland*.<sup>5</sup> According to the Government, the Working Hours Act does not completely fulfil all the requirements of Convention No. 30. In certain cases, in period-based work and when the employer and the employee have agreed on flexible working hours, hours of work can exceed ten a day. In addition, the Act does not allow making temporary exceptions, as prescribed by the Convention.

300. The restrictions on the upper limit of hours of work imposed by both Conventions also pose problems in *Japan* where, under the Labour Standards Law, work over these limits is permitted in the event of a written agreement between an employer and workers.<sup>6</sup> The Government of *Germany* points out that the Working Hours Act offers significantly greater flexibility than the Conventions because it allows temporary increases in working hours of up to ten hours without any specific reason being given. These types of restrictions laid down by the Conventions also pose problems in *Australia*, *France* and *Turkey*.

301. Another obstacle to the ratification of both Conventions is the fact that hours of work in a number of countries are regulated, not by laws or regulations, as required by

<sup>3</sup> Article 2(b) and Article 4 of Convention No. 1.

<sup>4</sup> Section 85(2) of the Labour Code.

<sup>5</sup> Convention No. 30 was denounced by Finland on 23 June 1999.

<sup>6</sup> Sections 26, 32 and 40 of the Labour Standards Law.

certain articles of the Conventions, but entirely by collective agreements, individual agreements between employers and employees, or awards. For example, in *Australia*, according to the Government, under the Working Relations Act, the focus is on determining hours of work by agreement at the workplace level with awards underpinning these agreements. In *Denmark*, working time is regulated by collective agreements between the social partners. According to the Government, this means that general compulsory rules to be implemented by legislation are not considered appropriate. Similarly, in the *United Kingdom*, the extent to which overtime may be worked is determined by the individual needs of each workplace and is subject to agreements between the employer and the employee (or their representative organizations). In the Government's view, the introduction of statutory procedures would limit the current level of flexibility.

302. In a number of cases, the national legislation prescribes a shorter duration of hours of work than that laid down in the Conventions. For example, in *Jamaica*, the law regards a working week of 40 hours as normal, and not 48 hours as provided in the Conventions.

303. In certain countries, the regulation of hours of work is not based on the principles of an eight-hour working day and a 48-hour working week, as embodied in the Conventions. This creates an obstacle for ratification. For example, in *Denmark*, the regulation of hours of work and rest is based upon the general principle of a rest period of 11 consecutive hours within any period of 24 hours. Furthermore, the main rule in Denmark is that it is possible to work for up to 13 consecutive hours. In *France*, the maximum daily duration of work, as a general rule, is ten hours.<sup>7</sup>

304. In addition to the legal obstacles to ratification arising in respect of both Conventions, each of them creates a number of specific difficulties.

## 2. *Specific legal obstacles to the ratification of Convention No. 1*

305. As far as Convention No. 1 is concerned, certain problems arise out of the scope of the definition of the term “industrial undertaking”.<sup>8</sup> For example, in *Switzerland*, the definition of industrial undertaking in the Federal Labour Act is narrower than that in the Convention as it excludes transport, mines and construction work.<sup>9</sup>

306. Other problems are also posed by the requirement set out in Article 5 for an agreement between workers' and employers' organizations concerning the daily limit of work over a longer period of time and the necessity for the government's approval of this agreement.<sup>10</sup> For example, in *Norway*, the Working Environment Act allows the averaging of working hours without the need to obtain the approval<sup>11</sup> and empowers the labour inspectorate to permit working hours to be averaged in cases where an agreement has not been concluded between the parties.<sup>12</sup>

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<sup>7</sup> Section L 212-1 of the Labour Code.

<sup>8</sup> Article 1, paragraph 1, of Convention No. 1.

<sup>9</sup> Section 5 of the Labour Act.

<sup>10</sup> Article 5, paragraph 1, of Convention No. 1.

<sup>11</sup> Section 47(2) of the Working Environment Act.

<sup>12</sup> Section 47(3) of the Working Environment Act.

### 3. *Specific legal obstacles to the ratification of Convention No. 30*

307. The ratification of Convention No. 30 may also be hindered by the broad scope of its coverage. For example, in the view of the Government of the *United Kingdom*, the wide range of occupations covered by this instrument renders it unsuitable for ratification.

308. Some problems are also associated with Article 5 of Convention No. 30, which deals with the regulation of making up hours of work which have been lost. Under the Convention, hours of work which have been lost must not be allowed to be made up on more than 30 days in the year and have to be made up within a reasonable lapse of time,<sup>13</sup> the increase in hours of work in the day must not exceed one hour,<sup>14</sup> and hours of work in the day must not exceed ten.<sup>15</sup> In *Turkey*, for instance, there is no limitation on the hours of work which may be made up.<sup>16</sup> Compensatory work can be carried on in that country on the condition that the increase in hours of work in the day does not exceed three hours, and the hours of work in the day do not exceed ten.<sup>17</sup>

309. Finally, another obstacle concerns the provision relating to penalties. While under the Convention each ratifying Member has to take the necessary measures in the form of penalties to ensure that its provisions are enforced,<sup>18</sup> in *Namibia* the prescription of penalties for non-adherence to working hours is not provided for in the Labour Act.

### D. Internal political, economic and social difficulties

310. In certain countries, the examination of a possible ratification of Conventions Nos. 1 and 30 has been hindered by other governmental tasks with a higher priority, or by the need to satisfy certain preconditions before the ratification process could be commenced. For example, in *Botswana*, the Government is still addressing its obligations to align the national legislation with the Conventions that have already been ratified, while in *Zimbabwe* the Government intends to make a thorough audit of the legal provisions and practice to ensure total compliance with the principles of Conventions before their ratification. In *El Salvador*, a legal study is required to determine whether the ratification of Conventions could affect or restrict the provisions of the Constitution.

311. In *Thailand*, the Government has not considered ratifying Convention No. 30 because other Conventions are considered more important, and its first priority is to focus on the fundamental and priority Conventions. The Government of *South Africa* recalls that the country rejoined the ILO in 1994 and that the main focus since then has been to ratify fundamental and priority Conventions.

312. The Government of *Nepal* indicates that in the present fluid political situation and the lack of a Parliament, the process of ratifying the Conventions could not be started at any time in the near future.

<sup>13</sup> Article 5, paragraph 1(a), of Convention No. 30.

<sup>14</sup> Article 5, paragraph 1(b), of Convention No. 30.

<sup>15</sup> Article 5, paragraph 1(c), of Convention No. 30.

<sup>16</sup> Section 64 of the Labour Act.

<sup>17</sup> Section 64 of the Labour Act.

<sup>18</sup> Article 12 of Convention No. 30.

313. Certain governments state that they are unable to consider ratifying the Conventions because of existing structural or administrative problems. For example, in the *United Arab Emirates*, the body in charge of following up international labour standards is a small one and it is difficult for it to assume additional obligations in this field.

314. In other countries, the possible ratification of the Conventions has been hindered by internal economic and social difficulties. For example, in *Bahrain*, even though there are no legal difficulties to the ratification of both Conventions, their ratification has still being prevented by difficulties of a practical order, namely the instability of the labour market and the modifications of the legislation on labour relations. The current labour situation has made ratifying the Conventions difficult in *Japan*. Existing social problems have also prevented the ratification of the Conventions in *Cambodia*.

315. The Government of *Croatia* points out that the country is in the process of transition characterized by slow economic growth and a high rate of unemployment and that it is therefore essential to adopt measures for the revival and stimulation of all forms of enterprise capable of contributing to more rapid economic growth and development. For this reason, the Government considers that constraints on entrepreneurial freedom may have a detrimental effect on the attainment of its strategic aims.

#### IV. Concluding comments

316. The reports clearly suggest that, in the majority of cases, the impediments to ratification of the Conventions are due to their general content and the perception as overly prescriptive and rigid, as well as the specific legal problems they raise. These obstacles are not caused by temporary problems, but are related to the nature of the instruments themselves. For this reason, in light of the existing trend for the flexibilization of working-time regulation around the world, any significant increase in the number of ratifications of the Conventions in the foreseeable future would appear to be unlikely.

## Chapter X

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### Conclusions

317. The ILO, from its earliest days, has attached importance to the issue of hours of work. This is reflected in the Preamble of the ILO Constitution which states: “conditions of labour exist involving such injustice, hardship and privation to large numbers of people ... and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week ...”.<sup>1</sup> The underlying principle is that human life does not consist of work alone but that every human being should be effectively protected against undue physical and mental fatigue and be given opportunities for recreation and social and family life. To reflect the “human rights” perspective in the international regulation of hours of work, continues to be valid today. The duration of working time and time for rest are an essential condition of every single employment relationship. Accordingly, every worker in the global economy should be entitled to a certain standard concerning maximum duration of her or his work as well as minimum duration of rest, and should be entitled to such protection regardless of where she or he happens to be born or to live.

318. A limitation on working time and the recognition of the right to rest, are reflected at the highest level in universal international documents of the highest order. In this sense, Article 24 of the Universal Declaration of Human Rights recognizes that everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. This is also recognized by Article 7(d) of the International Covenant on Economic, Social and Cultural Rights, which refers to rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

319. At the regional level, various international instruments have incorporated these principles. Recently, the Treaty establishing a Constitution for Europe has included recognition of the right of every worker to the limitation of maximum working hours, to a daily and weekly rest period and to an annual period of paid leave. In this context, the Conventions covered by this General Survey have set forth principles which have been widely followed and have become part of the list of the fundamental rights of human beings and their dignity.

320. When Conventions Nos. 1 and 30 were adopted, they were related to the needs and conditions of their times. Regulation and shortening the sometimes exploitative working hours of those days had for a long time been high on the agenda of the trade unions, as well as on that of a number of progressive industrialists, who were interested in good working conditions for their workforce, but feared competitive disadvantages if they

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<sup>1</sup> Constitution of the International Labour Organization and Standing Orders of the International Labour Conference. ILO, Geneva, 2001. Available at: <http://www.ilo.org/public/english/about/iloconst.htm#pre>.

implemented shorter hours of work unilaterally. In line with the philosophy laid down in the ILO's Constitution, Conventions Nos. 1 and 30 set the pace for a long line of ILO instruments, regulating working hours to protect workers from inhumane working conditions in the various branches of industry, commerce, offices and trade and maritime employment.

321. National limits on the duration of working hours undoubtedly have implications beyond the borders of the respective State. Already the ILO Constitution in its Preamble acknowledges that the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations, which desire to improve the conditions in their own countries.<sup>2</sup> The need for internationally accepted standards on hours of work has been further increased by the process of globalization, with its corresponding requirements to create and implement universal “rules of the game” for a global marketplace. Viewed from this perspective, internationally established limits on working hours contribute to the creation of the conditions for fair competition between countries so that none of them have a comparative advantage in the international market based on labour standards.

322. While international standards with respect to hours of work are required to provide effective protection for workers, the government reports and the information provided by the social partners reveal that Conventions Nos. 1 and 30 do not fully reflect modern realities in the regulation of working time. In fact, there are elements of the Conventions that are clearly outdated. Perhaps the most obvious is the 56-hour limit on continuous shift work contained in Article 4 of Convention No. 1. None of the countries that responded to the survey impose such a limit on continuous shift working. At the same time, many countries have introduced legal limits that are more favourable to workers than the generally applicable limit on working hours. In *Norway*, for example, the 40-hour limit is reduced to 36 hours for continuous shift workers,<sup>3</sup> and the same limit applies in *Paraguay* rather than its ordinary 48-hour limit.<sup>4</sup>

323. In general, these two instruments are viewed by an increasing number of countries as prescribing overly rigid standards. The “fixed” working hours system adopted by both Conventions as a cornerstone for the regulation of working time conflicts with today's demands for more flexibility. Severe restrictions on the number of hours by which the standard daily and weekly limits of hours of work may be extended have, in many cases, created an obstacle to the ratification of the two Conventions. Furthermore, in an increasing number of countries, hours of work are governed not by laws or regulations, as required by certain of the provisions of the Conventions, but by collective labour agreements or awards and in some cases by individual agreements. These problems associated with the instruments are reflected in their modest rates of ratification and the absence of perspectives for future increased ratification rates.

324. The need for a more “flexible” approach is further highlighted in the concluding comments contained in the individual chapters of this survey. Increasing use is made of more modern forms of working-time arrangements, such as part-time work, compressed work-weeks, staggered hours, variable daily shift lengths, annualized working hours, flexitime and on-call work. The preceding review has shown that implementation of these arrangements may, under certain circumstances, be in contradiction with the more

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<sup>2</sup> Constitution of the International Labour Organization and Standing Orders of the International Labour Conference. ILO, Geneva, 2001. Available at: <http://www.ilo.org/public/english/about/iloconst.htm#pre>.

<sup>3</sup> Section 46(4)(a) of the Act relating to worker protection and working environment.

<sup>4</sup> Section 198 of the Labour Code.

restricted requirements of Conventions Nos. 1 and 30, even though they may well be respecting one of the overriding considerations underlying the Conventions – the protection of workers.

325. In the overwhelming majority of countries, working hours are currently still dealt with comprehensively by the national legislation. At the international level, however, regulation of working hours at the beginning of the twenty-first century remains a patchwork of separate international instruments.

326. The adoption within the ILO of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), has shown an innovative approach to the regulation of hours of work and rest, providing flexibility in the choice given to countries to use either an hours-of-work approach or an hours-of-rest approach. In 2003, the European Working Time Directive has taken into account the relevant factors, which reach beyond the subject of hours of work per se: it includes provisions on daily and weekly rest periods, maximum weekly working time, annual leave, night work, shift work and patterns of work.<sup>5</sup> The OECD and the World Bank have undertaken important studies. Up-to-date and flexible regulation of working time is, however, not restricted to the highly industrialized countries. Recent labour legislation and regulations in *China*,<sup>6</sup> *Republic of Moldova*<sup>7</sup> and *Tunisia*<sup>8</sup> are examples of advanced regulations of working-time questions. While the research and legislative activities of international and national institutions do not necessarily reflect the same approach as this Committee's to working-time issues discussed in this survey, they illustrate the prominence that is given to the subject of working time worldwide.

327. Even though the impact of a particular ILO Convention cannot be measured exclusively by the number of ratifications, it is also true that an international standard cannot fully achieve its goals unless it is widely recognized, accepted and implemented. This leads to the question of what action should be taken by the ILO with respect to the regulation of working time in general, and in relation to Conventions Nos. 1 and 30 in particular. In the context of decent work, any international regulation of working hours has to safeguard workers' legitimate interests and needs in relation to their health and safety, as well as their recreational, family, social and spiritual values and needs. At the same time, such regulation should provide a greater degree of flexibility than that offered by the existing Conventions so that employers can better organize production and services, adjust to changing production requirements and be internationally competitive.

328. In light of the above considerations, the Committee is of the view that it remains important and relevant, to provide for minimum standards of working hours. However, the changes that have taken place since these two instruments were adopted, warrant their revision. This Committee does not have a mandate to make concrete proposals, which, of course, must reflect the views of the ILO's constituents. However, on the basis of this survey, the Committee suggests certain factors, which could be taken into account

<sup>5</sup> Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time. *Official Journal of the European Union*, 2003 (L 299/9). Available at: [http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l\\_299/l\\_29920031118en00090019.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_299/l_29920031118en00090019.pdf).

<sup>6</sup> *Views on some questions relating to part-time employment*, issued by the Ministry of Labour and Social Security on 30 May 2003. Printed separately.

<sup>7</sup> Section 97 of the Labour Code.

<sup>8</sup> Section 94-2 of the Labour Code.



by the appropriate bodies of the International Labour Organization, if a decision is taken to consider revision.

329. First, in view of the growing similarities of working-time arrangements in both industrial and non-industrial occupations, a single instrument revising both the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), would be called for. This suggestion may appear to be in contradiction with an earlier statement, cited in the introduction to this General Survey, concerning the reservations as to the feasibility of a single international instrument of broad scope.<sup>9</sup> The Committee's view is that the broad scope of a single instrument covering the whole issue of the length of working hours would not adversely affect the prospects for its ratification to a greater degree than the more limited provisions of two separate instruments. This Committee considers that the "human rights" dimension of the limitation of hours of work transcends existing distinctions between working-time patterns in the various sectors of economic activity and between the various categories of workers.

330. Second, in light of the increasing importance of the relation between working time and non-working time, in the organization of society today, it would also be desirable to include in any single instrument on hours of work the related issues of weekly rest and annual leave with pay, which are currently covered by other ILO instruments. The institution of compressed work-weeks, staggered hours, variable shift lengths, the annualization of hours of work and other forms of working-time arrangements has a direct impact on the manner, in which non-working time is addressed.

331. To ensure that workers' needs and employers' requirements are adequately balanced, the existing Weekly Rest (Industry) Convention, 1921 (No. 14), Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), and Holidays with Pay Convention (Revised), 1970 (No. 132), would also have to be examined. The Committee feels that only a single comprehensive instrument, as referred to in the preceding paragraph, could integrate both working and non-working-time issues, if the requirements of the modern world of work were to be satisfied.<sup>10</sup>

332. Subject to the reservation made above concerning its mandate, the Committee suggests that the following additional elements be taken into account in any new instrument:

- (a) providing effective protection for workers, so that working hours do not undermine their health and safety;
- (b) allowing for a fair balance between work and family lives;
- (c) ensuring that the new instrument does not result in a reduction of the level of protection currently afforded by existing instruments;
- (d) providing for more flexible working-time arrangements than the examined Conventions. This could be achieved by extending permissible daily working time within set limits with sufficient rest breaks, as part of ensuring decent working conditions;

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<sup>9</sup> See *supra*, Introduction, para. 17, footnote 55.

<sup>10</sup> The question arises as to whether the new comprehensive instrument should include existing instruments dealing with regulation of hours of work in specific sectors of industry or commerce, such as the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and others. See *supra*, Introduction, footnotes 34-35.

- (e) remedying a serious shortcoming of Conventions Nos. 1 and 30, which do not prescribe any specific limits to the total number of additional hours that may be worked during a specified period in the case of the permanent or temporary exceptions contained in the Conventions;
- (f) combining the regulation of hours of work and hours of rest, so as to prescribe a maximum limit on the total number of hours of work (including overtime) over a specified period while, at the same time, setting the minimum duration of the daily rest period;<sup>11</sup>
- (g) increasing flexibility in averaging hours over reasonable periods of longer than one week, thus allowing longer hours to be worked, when needed. This increased flexibility to be combined with reductions in average weekly hours of work, with 48 hours as a maximum (including overtime), coupled with the continuing objective of the 40-hour week;<sup>12</sup>
- (h) providing a clear definition of working time and containing sufficient flexibility to allow countries to adapt modern forms of working-time distribution to the conditions prevailing in each country. It should also take into account increased use of part-time work, compressed work-weeks, staggered hours, variable daily shift lengths, annualized working hours, flexitime and on-call work and other increasingly applied arrangements for the flexibility of hours of work. This may require specific clarification of issues, such as “on-call” time. National conditions, however, vary considerably between developed and developing countries, between different types of economies and in different climatic conditions;
- (i) ensuring consultations between employers and workers and their organizations on working time, and also permitting individual workers to exercise a degree of choice over their working hours, as well as allowing flexibility for employers;
- (j) providing that the basic principles of working time should be regulated in national legislation. Effect to these principles can be given by national laws or regulations or collective agreements or awards or other means compatible with national law and practice.

333. In view of the above, the Committee hopes that this General Survey and its conclusions will serve as a basis for fruitful discussion of a comprehensive review of the existing system of international regulation of working time.

<sup>11</sup> See, e.g., articles 3 and 6 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time.

<sup>12</sup> See Forty-Hour Week Convention, 1935 (No. 47).

# Appendix I

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## Convention No. 1

### Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week

The General Conference of the International Labour Organisation,

Having been convened at Washington by the Government of the United States of America on the 29th day of October 1919, and

Having decided upon the adoption of certain proposals with regard to the “application of the principle of the 8-hours day or of the 48-hours week”, which is the first item in the agenda for the Washington meeting of the Conference, and

Having determined that these proposals shall take the form of an international Convention, adopts the following Convention, which may be cited as the Hours of Work (Industry) Convention, 1919, for ratification by the Members of the International Labour Organisation, in accordance with the provisions of the Constitution of the International Labour Organisation:

#### *Article 1*

1. For the purpose of this Convention, the term “industrial undertaking” includes particularly –

- (a) mines, quarries, and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road, rail, sea or inland waterway, including the handling of goods at docks, quays, wharves or warehouses, but excluding transport by hand.

2. The provisions relative to transport by sea and on inland waterways shall be determined by a special conference dealing with employment at sea and on inland waterways.

3. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

#### *Article 2*

The working hours of persons employed in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are

employed, shall not exceed eight in the day and forty-eight in the week, with the exceptions hereinafter provided for:

- (a) the provisions of this Convention shall not apply to persons holding positions of supervision or management, nor to persons employed in a confidential capacity;
- (b) where by law, custom, or agreement between employers' and workers' organisations, or, where no such organisations exist, between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent public authority, or by agreement between such organisations or representatives; provided, however, that in no case under the provisions of this paragraph shall the daily limit of eight hours be exceeded by more than one hour;
- (c) where persons are employed in shifts it shall be permissible to employ persons in excess of eight hours in any one day and forty-eight hours in any one week, if the average number of hours over a period of three weeks or less does not exceed eight per day and forty-eight per week.

#### *Article 3*

The limit of hours of work prescribed in Article 2 may be exceeded in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of "*force majeure*", but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking.

#### *Article 4*

The limit of hours of work prescribed in Article 2 may also be exceeded in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, subject to the condition that the working hours shall not exceed fifty-six in the week on the average. Such regulation of the hours of work shall in no case affect any rest days which may be secured by the national law to the workers in such processes in compensation for the weekly rest day.

#### *Article 5*

1. In exceptional cases where it is recognised that the provisions of Article 2 cannot be applied, but only in such cases, agreements between workers' and employers' organisations concerning the daily limit of work over a longer period of time may be given the force of regulations, if the Government, to which these agreements shall be submitted, so decides.

2. The average number of hours worked per week, over the number of weeks covered by any such agreement, shall not exceed forty-eight.

#### *Article 6*

1. Regulations made by public authority shall determine for industrial undertakings –

- (a) the permanent exceptions that may be allowed in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of an establishment, or for certain classes of workers whose work is essentially intermittent;
- (b) the temporary exceptions that may be allowed, so that establishments may deal with exceptional cases of pressure of work.

2. These regulations shall be made only after consultation with the organisations of employers and workers concerned, if any such organisations exist. These regulations shall fix the maximum of additional hours in each instance, and the rate of pay for overtime shall not be less than one and one-quarter times the regular rate.

*Article 7*

1. Each Government shall communicate to the International Labour Office –

- (a) a list of the processes which are classed as being necessarily continuous in character under Article 4;
- (b) full information as to working of the agreements mentioned in Article 5; and
- (c) full information concerning the regulations made under Article 6 and their application.

2. The International Labour Office shall make an annual report thereon to the General Conference of the International Labour Organisation.

*Article 8*

1. In order to facilitate the enforcement of the provisions of this Convention, every employer shall be required –

- (a) to notify by means of the posting of notices in conspicuous places in the works or other suitable place, or by such other method as may be approved by the Government, the hours at which work begins and ends, and where work is carried on by shifts, the hours at which each shift begins and ends; these hours shall be so fixed that the duration of the work shall not exceed the limits prescribed by this Convention, and when so notified they shall not be changed except with such notice and in such manner as may be approved by the Government;
- (b) to notify in the same way such rest intervals accorded during the period of work as are not reckoned as part of the working hours;
- (c) to keep a record in the form prescribed by law or regulation in each country of all additional hours worked in pursuance of Articles 3 and 6 of this Convention.

2. It shall be made an offence against the law to employ any person outside the hours fixed in accordance with paragraph (a), or during the intervals fixed in accordance with paragraph (b).

*Article 9*

In the application of this Convention to Japan the following modifications and conditions shall obtain:

- (a) the term “industrial undertaking” includes particularly –
  - the undertakings enumerated in paragraph (a) of Article 1;
  - the undertakings enumerated in paragraph (b) of Article 1, provided there are at least ten workers employed;
  - the undertakings enumerated in paragraph (c) of Article 1, in so far as these undertakings shall be defined as “factories” by the competent authority;
  - the undertakings enumerated in paragraph (d) of Article 1, except transport of passengers or goods by road, handling of goods at docks, quays, wharves, and warehouses, and transport by hand; and, regardless of the number of persons employed, such of the undertakings enumerated in paragraph (b) and (c) of Article 1 as may be declared by the competent authority either to be highly dangerous or to involve unhealthy processes.
- (b) the actual working hours of persons of fifteen years of age or over in any public or private industrial undertaking, or in any branch thereof, shall not exceed fifty-seven in the week, except that in the raw-silk industry the limit may be sixty hours in the week;
- (c) the actual working hours of persons under fifteen years of age in any public or private industrial undertaking, or in any branch thereof, and of all miners of whatever age engaged in underground work in the mines, shall in no case exceed forty-eight in the week;
- (d) the limit of hours of work may be modified under the conditions provided for in Articles 2, 3, 4 and 5 of this Convention, but in no case shall the length of such modification bear to the length of the basic week a proportion greater than that which obtains in those Articles;

- (e) a weekly rest period of twenty-four consecutive hours shall be allowed to all classes of workers;
- (f) the provision in Japanese factory legislation limiting its application to places employing fifteen or more persons shall be amended so that such legislation shall apply to places employing ten or more persons;
- (g) the provisions of the above paragraphs of this Article shall be brought into operation not later than 1 July 1922, except that the provisions of Article 4 as modified by paragraph (d) of this Article shall be brought into operation not later than 1 July 1923;
- (h) the age of fifteen prescribed in paragraph (c) of this Article shall be raised, not later than 1 July 1925, to sixteen.

#### *Article 10*

In British India the principle of a sixty-hour week shall be adopted for all workers in the industries at present covered by the factory acts administered by the Government of India, in mines, and in such branches of railway work as shall be specified for this purpose by the competent authority. Any modification of this limitation made by the competent authority shall be subject to the provisions of Articles 6 and 7 of this Convention. In other respects the provisions of this Convention shall not apply to India, but further provisions limiting the hours of work in India shall be considered at a future meeting of the General Conference.

#### *Article 11*

The provisions of this Convention shall not apply to China, Persia, and Siam, but provisions limiting the hours of work in these countries shall be considered at a future meeting of the General Conference.

#### *Article 12*

In the application of this Convention to Greece, the date at which its provisions shall be brought into operation in accordance with Article 19 may be extended to not later than 1 July 1923, in the case of the following industrial undertakings:

- (1) carbon-bisulphide works,
- (2) acid works,
- (3) tanneries,
- (4) paper mills,
- (5) printing works,
- (6) sawmills,
- (7) warehouses for the handling and preparation of tobacco,
- (8) surface mining,
- (9) foundries,
- (10) lime works,
- (11) dye works,
- (12) glassworks (blowers),
- (13) gas works (firemen),
- (14) loading and unloading merchandise;

and to not later than 1 July 1924, in the case of the following industrial undertakings:

- (1) mechanical industries: machine shops for engines, safes, scales, beds, tacks, shells (sporting), iron foundries, bronze foundries, tin shops, plating shops, manufactories of hydraulic apparatus;

- (2) constructional industries: limekilns, cement works, plasterers' shops, tile yards, manufactories of bricks and pavements, potteries, marble yards, excavating and building work;
- (3) textile industries: spinning and weaving mills of all kinds, except dye works;
- (4) food industries: flour and grist-mills, bakeries, macaroni factories, manufactories of wines, alcohol, and drinks, oil works, breweries, manufactories of ice and carbonated drinks, manufactories of confectioners' products and chocolate, manufactories of sausages and preserves, slaughterhouses, and butcher shops;
- (5) chemical industries: manufactories of synthetic colours, glassworks (except the blowers), manufactories of essence of turpentine and tartar, manufactories of oxygen and pharmaceutical products, manufactories of flaxseed oil, manufactories of glycerine, manufactories of calcium carbide, gas works (except the firemen);
- (6) leather industries: shoe factories, manufactories of leather goods;
- (7) paper and printing industries: manufactories of envelopes, record books, boxes, bags, bookbinding, lithographing, and zinc-engraving shops;
- (8) clothing industries: clothing shops, underwear and trimmings, workshops for pressing, workshops for bed coverings, artificial flowers, feathers, and trimmings, hat and umbrella factories;
- (9) woodworking industries: joiners' shops, coopers' sheds, wagon factories, manufactories of furniture and chairs, picture-framing establishments, brush and broom factories;
- (10) electrical industries: power houses, shops for electrical installations;
- (11) transportation by land: employees on railroads and street cars, firemen, drivers, and carters.

### *Article 13*

In the application of this Convention to Rumania the date at which its provisions shall be brought into operation in accordance with Article 19 may be extended to not later than 1 July 1924.

### *Article 14*

The operation of the provisions of this Convention may be suspended in any country by the Government in the event of war or other emergency endangering the national safety.

### *Article 15*

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labour Organisation, shall be communicated to the Director-General of the International Labour Office for registration.

### *Article 16*

1. Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing –

- (a) except where owing to the local conditions its provisions are inapplicable; or
- (b) subject to such modifications as may be necessary to adapt its provisions to local conditions.

2. Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates, and possessions which are not fully self-governing.

### *Article 17*

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation.

*Article 18*

This Convention shall come into force at the date on which such notification is issued by the Director-General of the International Labour Office, and it shall then be binding only upon those Members which have registered their ratifications with the International Labour Office. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the International Labour Office.

*Article 19*

Each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July 1921, and to take such action as may be necessary to make these provisions effective.

*Article 20*

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

*Article 21*

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

*Article 22*

The French and English texts of this Convention shall both be authentic.



## Appendix II

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### Convention No. 30

#### Convention concerning the regulation of hours of work in commerce and offices

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office,  
and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to the regulations of hours  
of work in commerce and offices, which is included in the second item on the agenda of  
the Session, and

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

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following  
Convention, which may be cited as the Hours of Work (Commerce and Offices) Convention, 1930,  
for ratification by the Members of the International Labour Organisation in accordance with the  
provisions of the Constitution of the International Labour Organisation:

##### *Article 1*

1. This Convention shall apply to persons employed in the following establishments, whether  
public or private:

- (a) commercial or trading establishments, including postal, telegraph and telephone services and  
commercial or trading branches of any other establishments;
- (b) establishments and administrative services in which the persons employed are mainly engaged  
in office work;
- (c) mixed commercial and industrial establishments, unless they are deemed to be industrial  
establishments.

The competent authority in each country shall define the line which separates commercial and  
trading establishments, and establishments in which the persons employed are mainly engaged in  
office work, from industrial and agricultural establishments.

2. The Convention shall not apply to persons employed in the following establishments:

- (a) establishments for the treatment or the care of the sick, infirm, destitute, or mentally unfit;
- (b) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses;
- (c) theatres and places of public amusement.

The Convention shall nevertheless apply to persons employed in branches of the establishments  
mentioned in (a), (b) and (c) of this paragraph in cases where such branches would, if they were  
independent undertakings, be included among the establishments to which the Convention applies.

3. It shall be open to the competent authority in each country to exempt from the application of  
the Convention –

- (a) establishments in which only members of the employer's family are employed;

- (b) offices in which the staff is engaged in connection with the administration of public authority;
- (c) persons occupying positions of management or employed in a confidential capacity;
- (d) travellers and representatives, in so far as they carry on their work outside the establishment.

#### *Article 2*

For the purpose of this Convention the term “hours of work” means the time during which the persons employed are at the disposal of the employer; it does not include rest periods during which the persons employed are not at the disposal of the employer.

#### *Article 3*

The hours of work of persons to whom this Convention applies shall not exceed forty-eight hours in the week and eight hours in the day, except as hereinafter otherwise provided.

#### *Article 4*

The maximum hours of work in the week laid down in Article 3 may be so arranged that hours of work in any day do not exceed ten hours.

#### *Article 5*

1. In case of a general interruption of work due to (a) local holidays, or (b) accidents or *force majeure* (accidents to plant, interruption of power, light, heating or water, or occurrences causing serious material damage to the establishments), hours of work in the day may be increased for the purpose of making up the hours of work which have been lost, provided that the following conditions are complied with:

- (a) hours of work which have been lost shall not be allowed to be made up on more than thirty days in the year and shall be made up within a reasonable lapse of time;
- (b) the increase in hours of work in the day shall not exceed one hour;
- (c) hours of work in the day shall not exceed ten.

2. The competent authority shall be notified of the nature, cause and date of the general interruption of work, of the number of hours of work which have been lost, and of the temporary alterations provided for in the working time-table.

#### *Article 6*

In exceptional cases where the circumstances in which the work has to be carried on make the provisions of Articles 3 and 4 inapplicable, regulations made by public authority may permit hours of work to be distributed over a period longer than the week, provided that the average hours of work over the number of weeks included in the period do not exceed forty-eight hours in the week and that hours of work in any day do not exceed ten hours.

#### *Article 7*

Regulations made by public authority shall determine –

1. The permanent exceptions which may be allowed for –

- (a) certain classes of persons whose work is inherently intermittent, such as caretakers and persons employed to look after working premises and warehouses;
- (b) classes of persons directly engaged in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the hours of work of the rest of the persons employed in the establishment;
- (c) shops and other establishments where the nature of the work, the size of the population or the number of persons employed render inapplicable the working hours fixed in Articles 3 and 4.

2. The temporary exceptions which may be granted in the following cases:

- (a) in case of accident, actual or threatened, *force majeure*, or urgent work to machinery or plant, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment;
- (b) in order to prevent the loss of perishable goods or avoid endangering the technical results of the work;
- (c) in order to allow for special work such as stocktaking and the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts;
- (d) in order to enable establishments to deal with cases of abnormal pressure of work due to special circumstances, in so far as the employer cannot ordinarily be expected to resort to other measures.

3. Save as regards paragraph 2 (a), the regulations made under this Article shall determine the number of additional hours of work which may be allowed in the day and, in respect of temporary exceptions, in the year.

4. The rate of pay for the additional hours of work permitted under paragraph 2 (b), (c) and (d) of this Article shall not be less than one-and-a-quarter times the regular rate.

#### *Article 8*

The regulations provided for in Articles 6 and 7 shall be made after consultation with the workers' and employers' organisations concerned, special regard being paid to collective agreements, if any, existing between such workers' and employers' organisations.

#### *Article 9*

The operation of the provisions of this Convention may be suspended in any country by the Government in the event of war or other emergency endangering national safety.

#### *Article 10*

1. Nothing in this Convention shall affect any custom or agreement whereby shorter hours are worked or higher rates of remuneration are paid than those provided by this Convention.

2. Any restrictions imposed by this Convention shall be in addition to and not in derogation of any other restrictions imposed by any law, order or regulation which fixes a lower maximum number of hours of employment or a higher rate of remuneration than those provided by this Convention.

#### *Article 11*

For the effective enforcement of the provisions of this Convention –

- 1. The necessary measures shall be taken to ensure adequate inspection;
- 2. Every employer shall be required –
  - (a) to notify, by the posting of notices in conspicuous positions in the establishment or other suitable place, or by such method as may be approved by the competent authority, the times at which hours of work begin and end, and, where work is carried on by shifts, the times at which each shift begins and ends;
  - (b) to notify in the same way the rest periods granted to the persons employed which, in accordance with Article 2, are not included in the hours of work;
  - (c) to keep a record in the form prescribed by the competent authority of all additional hours of work performed in pursuance of paragraph 2 of Article 7 and of the payments made in respect thereof.

3. It shall be made an offence to employ any person outside the times fixed in accordance with paragraph 2 (a) or during the periods fixed in accordance with paragraph 2 (b) of this Article.

#### *Article 12*

Each Member which ratifies this Convention shall take the necessary measures in the form of penalties to ensure that the provisions of the Convention are enforced.

#### *Article 13*

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 14*

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

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

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

#### *Article 15*

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

#### *Article 16*

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

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

#### *Article 17*

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

#### *Article 18*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall *ipso jure* involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force.

2. As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.

3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising convention.

#### *Article 19*

The French and English texts of this Convention shall both be authentic.

## Appendix III

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### Recommendation No. 116

#### Recommendation concerning reduction of hours of work

The General Conference of the International Labour Organisation,

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

Having decided upon the adoption of certain proposals with regard to hours of work, which is  
the ninth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation designed to  
supplement and facilitate the implementation of the existing international instruments  
concerning hours of work –

by indicating practical measures for the progressive reduction of hours of work, taking  
into account the different economic and social conditions in the different countries as  
well as the variety of national practices for the regulation of hours and other conditions of  
work;

by outlining in broad terms methods whereby such practical measures might be applied;  
and

by indicating the standard of the forty-hour week, which principle is set out in the Forty-  
Hour Week Convention, 1935, as a social standard to be reached by stages if necessary,  
and setting a maximum limit to normal hours of work, pursuant to the Hours of Work  
(Industry) Convention, 1919,

adopts this twenty-sixth day of June of the year one thousand nine hundred and sixty-two, the  
following Recommendation, which may be cited as the Reduction of Hours of Work  
Recommendation, 1962:

#### I. GENERAL PRINCIPLES

1. Each Member should formulate and pursue a national policy designed to promote by  
methods appropriate to national conditions and practice and to conditions in each industry the  
adoption of the principle of the progressive reduction of normal hours of work in conformity with  
Paragraph 4.

2. Each Member should, by means appropriate to the methods which are in operation or which  
may be introduced for the regulation of hours of work, promote and, in so far as is consistent with  
national conditions and practice, ensure the application of the principle of the progressive reduction of  
normal hours of work in conformity with Paragraph 4.

3. The principle of the progressive reduction of normal hours of work may be given effect  
through laws or regulations, collective agreements, or arbitration awards, by a combination of these  
various means, or in any other manner consistent with national practice, as may be most appropriate to  
national conditions and to the needs of each branch of activity.

4. Normal hours of work should be progressively reduced, when appropriate, with a view to attaining the social standard indicated in the Preamble of this Recommendation without any reduction in the wages of the workers as at the time hours of work are reduced.

5. Where the duration of the normal working week exceeds forty-eight hours, immediate steps should be taken to bring it down to this level without any reduction in the wages of the workers as at the time hours of work are reduced.

6. Where normal weekly hours of work are either forty-eight or less, measures for the progressive reduction of hours of work in accordance with Paragraph 4 should be worked out and implemented in a manner suited to the particular national circumstances and the conditions in each sector of economic activity.

7. Such measures should take into account –

- (a) the level of economic development attained and the extent to which the country is in a position to bring about a reduction in hours of work without reducing total production or productivity, endangering its economic growth, the development of new industries or its competitive position in international trade, and without creating inflationary pressures which would ultimately reduce the real income of the workers;
- (b) the progress achieved and which it is possible to achieve in raising productivity by the application of modern technology, automation and management techniques;
- (c) the need in the case of countries still in the process of development for improving the standards of living of their peoples; and
- (d) the preferences of employers' and workers' organisations in the different branches of activity concerned as to the manner in which the reduction in working hours might be brought about.

8. (1) The principle of the progressive reduction of normal hours of work, as expressed in Paragraph 4, may be applied by stages which need not be determined at the international level.

(2) Such stages may include –

- (a) stages spaced over time;
- (b) stages, progressively encompassing branches or sectors of the national economy;
- (c) a combination of the two preceding arrangements; or
- (d) such other arrangements as may be most appropriate to national circumstances and to conditions in each sector of economic activity.

9. In carrying out measures for progressively reducing hours of work, priority should be given to industries and occupations which involve a particularly heavy physical or mental strain or health risks for the workers concerned, particularly where these consist mainly of women and young persons.

10. Each Member should communicate to the Director-General of the International Labour Office, at appropriate intervals, information on the results obtained in the application of the provisions of this Recommendation with all such details as may be asked for by the Governing Body of the International Labour Office.

## II. METHODS OF APPLICATION

### *A. Definition*

11. Normal hours of work shall mean, for the purpose of this Recommendation, the number of hours fixed in each country by or in pursuance of laws or regulations, collective agreements or arbitration awards, or, where not so fixed, the number of hours in excess of which any time worked is remunerated at overtime rates or forms an exception to the recognised rules or custom of the establishment or of the process concerned.

### *B. Determination of hours of work*

12. (1) The calculation of normal hours of work as an average over a period longer than one week should be permitted when special conditions in certain branches of activity or technical needs justify it.

(2) The competent authority or body in each country should fix the maximum length of the period over which the hours of work may be averaged.

13. (1) Special provisions may be formulated with regard to processes which, by reason of their nature, have to be carried on continuously by a succession of shifts.

(2) Such special provisions should be so formulated that normal hours of work as an average in continuous processes do not exceed in any case the normal hours of work fixed for the economic activity concerned.

### C. Exceptions

14. The competent authority or body in each country should determine the circumstances and limits in which exceptions to the normal hours of work may be permitted –

- (a) permanently –
  - (i) in work which is essentially intermittent;
  - (ii) in certain exceptional cases required in the public interest;
  - (iii) in operations which for technical reasons must necessarily be carried on outside the limits laid down for the general working of the undertaking, part of the undertaking, or shift;
- (b) temporarily –
  - (i) in case of accident, actual or threatened;
  - (ii) in case of urgent work to be done to machinery or plant;
  - (iii) in case of *force majeure*;
  - (iv) in case of abnormal pressure of work;
  - (v) to make up time lost through collective stoppages of work due to accidents to materials, interruptions to the power supply, inclement weather, shortages of materials or transport facilities, and calamities;
  - (vi) in case of national emergency;
- (c) periodically –
  - (i) for annual stocktaking and the preparation of annual balance sheets;
  - (ii) for specified seasonal activities.

15. In cases where normal hours of work exceed forty-eight a week, the competent authority or body should, before authorising exceptions in the cases mentioned in subparagraphs (a)(i) and (iii), (b)(iv) and (v) and (c)(i) and (ii) of Paragraph 14, most carefully consider whether there is a real need for such exceptions.

### D. Overtime

16. All hours worked in excess of the normal hours should be deemed to be overtime, unless they are taken into account in fixing remuneration in accordance with custom.

17. Except for cases of *force majeure* limits to the total number of hours of overtime which can be worked during a specified period should be determined by the competent authority or body in each country.

18. In arranging overtime, due consideration should be given to the special circumstances of young persons under 18 years of age, of pregnant women and nursing mothers and of handicapped persons.

19. (1) Overtime work should be remunerated at a higher rate or rates than normal hours of work.

(2) The rate or rates of remuneration for overtime should be determined by the competent authority or body in each country: Provided that in no case should the rate be less than that specified in Article 6, paragraph 2, of the Hours of Work (Industry) Convention, 1919.

### *E. Consultation of employers and workers*

20. (1) The competent authority should make a practice of consulting the most representative employers' and workers' organisations on questions relating to the application of this Recommendation.

(2) In particular, there should be such consultation on the following matters in so far as they are left to the determination of the competent authority in each country:

- (a) the arrangements provided for in Paragraph 8;
- (b) the maximum length of the period over which hours of work may be averaged as provided for in Paragraph 12;
- (c) the provisions which may be made in pursuance of Paragraph 13 concerning processes which have to be carried on continuously by a succession of shifts;
- (d) the exceptions provided for in Paragraph 14;
- (e) the limitation and remuneration of overtime provided for in Paragraphs 17 and 19.

### *F. Supervision*

21. For the effective enforcement of the measures taken to reduce hours of work progressively in pursuance of Paragraphs 4 and 5 –

- (a) appropriate measures should be taken to ensure the proper administration of the provisions concerning hours of work by means of adequate inspection or otherwise;
- (b) the employer should be required to notify the workers concerned, by the posting of notices in the establishment or by such other methods as may be approved by the competent authority, of –
  - (i) the times at which work begins and ends;
  - (ii) where work is carried on by shifts, the time at which each shift begins and ends;
  - (iii) rest periods which are not included in the normal hours of work;
  - (iv) the days worked during the week;
- (c) the employer should be required to keep, and on request to produce for inspection, a record in a form acceptable to the competent authority of the hours of work, wages and overtime for each worker;
- (d) provision should be made for such sanctions as may be appropriate to the method by which effect is given to the provisions of this Recommendation.

### *G. General provisions*

22. This Recommendation does not affect any law, regulation, award, custom, agreement, or negotiation between employers and workers which ensures, or aims at ensuring, more favourable conditions for the workers.

23. This Recommendation does not apply to agriculture, to maritime transport and to maritime fishing. Special provisions should be formulated for these branches of economic activity.



## Appendix IV

### List of ratifications of Convention No. 1

#### Hours of Work (Industry) Convention, 1919 (No. 1)

Date of entry into force: 13.6.1921 (52 ratifications)

Country	Date of ratification	Country	Date of ratification
Angola	04.06.1976	Libyan Arab Jamahiriya	27.05.1971
Argentina	30.11.1933	Lithuania	19.06.1931
Bangladesh	22.06.1972	Luxembourg	16.04.1928
Belgium	06.09.1926	Malta	09.06.1988
Bolivia	15.11.1973	Mozambique	06.06.1977
Bulgaria	14.02.1922	Myanmar	14.07.1921
Burundi	30.07.1971	Nicaragua	12.04.1934
Canada	21.03.1935	Pakistan	14.07.1921
Chile	15.09.1925	Paraguay	21.03.1966
Colombia	20.06.1933	Peru	08.11.1945
Comoros	23.10.1978	Portugal	03.07.1928
Costa Rica	01.03.1982	Romania	13.06.1921
Cuba	20.09.1934	Saudi Arabia	15.06.1978
Czech Republic	01.01.1993	Slovakia	01.01.1993
Djibouti	03.08.1978	Spain	22.02.1929
Dominican Republic	04.02.1933	Syrian Arab Republic	10.05.1960
Egypt	10.05.1960	United Arab Emirates	27.05.1982
Equatorial Guinea	12.06.1985	Uruguay	06.06.1933
Ghana	19.06.1973	Venezuela	20.11.1944
Greece	19.11.1920	<b>Conditional ratification</b>	
Guatemala	14.06.1988	Austria	12.06.1924
Guinea-Bissau	21.02.1977	France	02.06.1927
Haiti	31.03.1952	Italy	06.10.1924
India	14.07.1921	Latvia	15.08.1925
Iraq	24.08.1965	<b>Denunciation</b>	
Israel	26.06.1951	New Zealand	29.03.1938
Kuwait	21.09.1961	Denounced on 09.06.1989	
Lebanon	01.06.1977		

## Appendix V

### List of ratifications of Convention No. 30

#### Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

Date of entry into force: 29.8.1933 (30 ratifications)

Country	Date of ratification	Country	Date of ratification
Argentina	14.03.1950	Morocco	22.07.1974
Bolivia	15.11.1973	Mozambique	06.06.1977
Bulgaria	22.06.1932	Nicaragua	12.04.1934
Chile	18.10.1935	Norway	29.06.1953
Colombia	04.03.1969	Panama	16.02.1959
Cuba	24.02.1936	Paraguay	21.03.1966
Egypt	10.05.1960	Saudi Arabia	15.06.1978
Equatorial Guinea	12.06.1985	Spain	29.08.1932
Ghana	19.06.1973	Syrian Arab Republic	10.05.1960
Guatemala	04.08.1961	Uruguay	06.06.1933
Haiti	31.03.1952	<b>Conditional ratification</b>	
Iraq	26.11.1962	Austria	16.02.1933
Israel	26.06.1951	<b>Denunciation</b>	
Kuwait	21.09.1961	Finland	13.01.1936
Lebanon	01.06.1977	Denounced on 23.06.1999	
Luxembourg	03.03.1958	New Zealand	29.03.1938
Mexico	12.05.1934	Denounced on 09.06.1989	

## Appendix VI

**Table II. Laws, regulations and other measures regarding the matters dealt with in the Conventions**

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Algeria			X <sup>1</sup>					
Australia	X <sup>2</sup>	X <sup>3</sup>					X	
Bangladesh			X <sup>4</sup>					
Bahrain			X <sup>5</sup>	X <sup>6</sup>				
Belarus			X <sup>7</sup>	X <sup>8</sup>				

<sup>1</sup> Law No. 97-03 on the legal duration of work, of 11 January 1997. *Journal officiel*, 1997, No. 3; Law No. 90-11 on labour relations, of 21 April 1990. *Journal officiel*, 1990, No. 17, 1991, No. 38; Law No. 90-14 on the exercise of trade union rights, of 2 June 1990. *Journal officiel*, 1990, No. 23.

<sup>2</sup> Workplace Relations Act 1996. Available at: <http://www.austlii.edu.au/cgi-bin/disp.pl/au/legis/cth/consol%5fact/wra1996220/?query=title+%28+%22workplace+relations+act%22+%29>. Specific levels of hours of work are established by awards of the Australian Industrial Relations Commission (AIRC) or by agreements between the employer and employees at the workplace or enterprise level.

<sup>3</sup> See, e.g., New South Wales – Industrial Relations Act 1996 (available at: [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/ira1996242/](http://www.austlii.edu.au/au/legis/nsw/consol_act/ira1996242/)); Queensland, Industrial Relations Act 1999 (available at: [http://www.austlii.edu.au/au/legis/qld/consol\\_act/ira1999242/](http://www.austlii.edu.au/au/legis/qld/consol_act/ira1999242/)); Western Australia, Minimum Conditions of Employment Act 1993 (available at [http://www.austlii.edu.au/au/legis/wa/consol\\_act/mcoea1993365/](http://www.austlii.edu.au/au/legis/wa/consol_act/mcoea1993365/)).

<sup>4</sup> Factories Act, 1965 (No. 4 of 1965). Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/47346/65073/E65BGD01.htm>; Shops and Establishments Act, 1965 (No. 7 of 1965). See *Labour and industrial laws of Bangladesh* (Dhaka, Bangladesh, 2000), pp. 147-162.

<sup>5</sup> Articles 78 and 79 of Chapter XI of the Labour Law for the Private Sector, promulgated by Amiri Decree Law No. 23 of 1976. Available at: <http://www.bah-molsa.com/english/chap11.htm>.

<sup>6</sup> Order No. 19 of 1976 of the Ministry of Labour and Social Affairs concerning the limitations of instances and occupations in which work may continue without a rest break; Order No. 20 of 1976 of the Ministry of Labour and Social Affairs limiting national holidays, seasons, other occasions and seasonal work on which workers may be required to work overtime. Available at: <http://www.bah-molsa.com/english/>.

<sup>7</sup> Labour Code of the Republic of Belarus, of 26 July 1999, No. 432. *Vedomosti Verkhovnogo Soveta*, 1999, No. 26-27.

<sup>8</sup> See, e.g., resolution of the Ministry of Labour of the Republic of Belarus, of 5 January 2000, No. 1 “On the introduction of changes into the List of industries, departments, occupations and positions with hazardous working conditions entitling workers to shorter working hours and additional leave, approved by the Resolution of the State Committee of the Republic of Belarus on labour and social protection of the population, of 29 July 1994 No. 89”. Printed separately. Resolution of the Ministry of Labour of the Republic of Belarus, of 14 April 2000, No. 55 approving Regulations on the labour of workers sent to work in institutions of the Republic of Belarus abroad and on guarantees and compensation for business trips abroad. Printed separately.

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Belgium			X <sup>9</sup>		X <sup>10</sup>			
Benin			X <sup>11</sup>	X <sup>12</sup>	X			
Bolivia			X <sup>13</sup>					
Botswana			X <sup>14</sup>					
Brazil	X <sup>15</sup>		X					
Cambodia			X <sup>16</sup>					
Canada	X <sup>17</sup>	X <sup>18</sup>	X	X				

<sup>9</sup> Labour Act, of 16 March 1971. *Moniteur belge*, of 30 March 1971. Available at: [http://www.just.fgov.be/index\\_fr.htm](http://www.just.fgov.be/index_fr.htm); Act on the introduction of new working arrangements in the enterprises, of 17 March 1987. *Moniteur belge*, of 12 June 1987; Act respecting work and the quality of life, of 10 August 2001. Available at: [http://www.just.fgov.be/index\\_fr.htm](http://www.just.fgov.be/index_fr.htm).

<sup>10</sup> Collective Labour Agreement No. 42 concerning the introduction of new working arrangements in the enterprises, of 2 June 1987. Available at: [http://www.just.fgov.be/index\\_fr.htm](http://www.just.fgov.be/index_fr.htm).

<sup>11</sup> Law No. 98-004 issuing the Labour Code, of 27 January 1998. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/49604/65115/F98BEN01.htm>.

<sup>12</sup> Decree No. 98-368 concerning the equivalence of working hours in enterprises governed by the Labour Code, of 4 September 1998. Printed separately; Order No. 026/MFPTRA/DC/SGM/DT/SRT of the Ministry of Public Administration, Labour and Administrative Reform respecting the general conditions of employment of domestic workers in the Republic of Benin, of 14 April 1998; Order No. 029/MFPTRA/DC/SGM/DGT/SRT of the Ministry of Public Administration, Labour and Administrative Reform respecting the rules related to the recovery of hours of work, of 21 January 2004. Printed separately.

<sup>13</sup> General Labour Act, approved by Legislative Decree of 24 May 1939, and transformed into the Act of the Republic on 8 December 1942. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46218/65057/S92BOL01.htm>.

<sup>14</sup> Employment Act No. 29 of 1982. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/842/64792/E82BWA01.htm>.

<sup>15</sup> Constitution of the Federative Republic of Brazil, of 5 October 1988. See Gisbert H. Flanz (ed.): *Constitutions of the Countries of the World*, Vol. III (Oceana Publications, New York, 1998); Consolidation of Labour Laws, as approved by Decree No. 5452, of 1 May 1943 (as amended) and subsequent legislation. Available at: [https://legislacao.planalto.gov.br/legislacao/nsf/fraWeb?OpenFrameSet&Frame=frmWeb2&Src=%2Flegislacao.nsf%2FViw\\_Identificacao%2FDEL%25205.452-1943%3FOpenDocument%26AutoFramed](https://legislacao.planalto.gov.br/legislacao/nsf/fraWeb?OpenFrameSet&Frame=frmWeb2&Src=%2Flegislacao.nsf%2FViw_Identificacao%2FDEL%25205.452-1943%3FOpenDocument%26AutoFramed).

<sup>16</sup> Labour Law of 13 March 1997. Available at: [http://www.cambodianlaws.com/laws\\_regulation/rkm\\_labor\\_law\\_97\\_page1.htm](http://www.cambodianlaws.com/laws_regulation/rkm_labor_law_97_page1.htm); Law on social security schemes for persons defined by the provisions of the Labour Law, of 25 September 2002. Printed separately.

<sup>17</sup> Canada Labour Code (R.S., 1985, c. L-2, available at: <http://www.canlii.org/ca/sta/l-2/part16931.html>) and Canada Labour Standards Regulations (C.R.C., c 986, available at: <http://www.canlii.org/ca/regu/crc986/part31557.html>). For a summary of the relevant provisions, see [http://www.hrsdc.gc.ca/en/lp/spila/elli/eslc/hours\(e\).pdf](http://www.hrsdc.gc.ca/en/lp/spila/elli/eslc/hours(e).pdf).

<sup>18</sup> Alberta, Employment Standards Code (R.S.A. 2000, c. E-9, available at: <http://www.canlii.org/ab/laws/sta/e-9/20040802/whole.html>) and Regulations (Alta. Reg. 14/1997, available at: <http://www.canlii.org/ab/laws/regu/1997r.14/20040802/whole.html>); British Columbia, Employment Standards Act ([RSBC 1996], Chapter 113, available at: [http://www.qp.gov.bc.ca/statreg/stat/E/96113\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/E/96113_01.htm)) and Regulation (B.C. Reg. 396/95, available at: [http://www.qp.gov.bc.ca/statreg/reg/E/EmployStand/396\\_95.htm](http://www.qp.gov.bc.ca/statreg/reg/E/EmployStand/396_95.htm)); Manitoba, Employment Standards Code (C.C.S.M., c. E110, available at: <http://www.canlii.org/mb/laws/sta/e-110/20040802/whole.html>) and Minimum Wages and Working Conditions Regulation (No. 62/99, available at: <http://www.canlii.org/mb/laws/regu/1999r.62/20040802/whole.html>); New Brunswick, Employment Standards Act (S.N.B., 1982, c. E-7.2, available at: <http://www.canlii.org/nb/laws/sta/e-7.2/20040802/whole.html>) and Minimum Wages Regulation (No. 2003-82, N.B. Reg. 2003-82, available at: <http://www.canlii.org/nb/laws/regu/2003r.82/20040802/whole.html>); Newfoundland and Labrador, Labour Standards Act (R.S.N.L. 1990, c. L-2, available at: <http://www.canlii.org/nl/laws/sta/l-2/20040706/whole.html>) and Regulation (C.N.L.R. 781/96, available at: <http://www.canlii.org/nl/laws/>

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Central African Republic			X <sup>19</sup>		X <sup>20</sup>			
China			X <sup>21</sup>	X <sup>22</sup>				
Costa Rica			X <sup>23</sup>					
Côte d'Ivoire			X <sup>24</sup>	X <sup>25</sup>	X <sup>26</sup>			
Croatia			X <sup>27</sup>					

regu/1996r.781/20040817/whole.html); Northwest Territories and Nunavut, Labour Standards Act (R.S.N.W.T. 1998, c. L-1, available at: <http://www.canlii.org/nt/laws/sta/l-1/20040616/whole.html>); Nova Scotia, Labour Standards Code (R.S.N.S. 1989, c. 246, available at: <http://www.canlii.org/ns/laws/sta/r1989c.246/20040802/whole.html>), General Labour Standards Code Regulations (N.S. Reg. 298/90, available at: <http://www.canlii.org/ns/laws/regu/1990r.298/20040802/whole.html>) and General Minimum Wage Order (GMWO) (N.S. Reg. 5/99, Sch. A, available at: <http://www.canlii.org/ns/laws/regu/1999r.5sch.a/20040802/whole.html>); Ontario, Employment Standards Act 2000 (S.O. 2000, c. 41, available at: <http://www.canlii.org/on/laws/sta/2000c.41/20040802/whole.html>), and Exemptions, Special Rules and Establishment of Minimum Wage Regulation (O. Reg., 285/01, available at: <http://www.canlii.org/on/laws/regu/2001r.285/20040802/whole.html>); Quebec, An Act Respecting Labour Standards (R.S.Q. chapter N-1.1, available at: <http://www.canlii.org/qc/laws/sta/n-1.1/20040802/whole.html>) and Regulation (R.Q. N 1.1, r. 3, available at: <http://www.canlii.org/qc/laws/regu/n-1.1r.3/20040802/whole.html>); Saskatchewan, Labour Standards Act (R.S.S. 1978, c. L-1, available at: <http://www.canlii.org/sk/laws/sta/l-1/20040618/whole.html>) and Regulation (R.S.S., c. L-1, Reg. 5, available at: <http://www.canlii.org/sk/laws/regu/l-1r.5/20040618/whole.html>); Yukon, Employment Standards Act (RSY, 2002, Chapter 72, available at: <http://www.canlii.org/yk/sta/pdf/ch72.pdf>) and General Exemption Regulation (O.I.C., 1984/344, 1994/180, 1999/51). For a summary of the relevant provisions, see [http://www.hrsdc.gc.ca/en/lp/spila/elli/eslc/hours\(e\).pdf](http://www.hrsdc.gc.ca/en/lp/spila/elli/eslc/hours(e).pdf).

<sup>19</sup> Constitutional Act No. 1, of 15 March 2003. Available at: <http://droit.francophonie.org/doc/html/cf/con/2003dfcfco1.html>; Constitutional Act No. 2 on the provisional organization of state powers, of 15 March 2003. Available at: <http://droit.francophonie.org/doc/html/cf/con/2003dfcfco2.html>; Constitutional Act No. 3 amending and supplementing Constitutional Act No. 2 on the provisional organization of state powers, of 12 December 2003. Printed separately; Act No. 61.221 issuing the Labour Code, of 2 June 1961. Printed separately; Act No. 001.010 establishing the investment charter of the Central African Republic, of 16 July 2001. Available at: [http://teya.org/Charte\\_Investissements](http://teya.org/Charte_Investissements).

<sup>20</sup> Collective agreement for industry; collective agreement for commerce.

<sup>21</sup> The Labour Law of China, of 5 July 1994. Printed separately. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/37357/64926/E94CHN01.htm>.

<sup>22</sup> Regulation of the State Council on the hours of work of employees, of 25 March 1995. Printed separately; Regulations of the Ministry of Labour and Social Security approving variable hours of work and consolidated hours of work in enterprises, of 14 December 1994. Printed separately; Joint Notice of the Ministry of Labour and Social Security and the All-China Federation of Trade Unions on the Protection of Legal Rights and Interests of Enterprise Employees, of 21 September 1993. Printed separately.

<sup>23</sup> Article 58 of the Constitution of Costa Rica, of 7 November 1949. See Constitución Política de la Republica de Costa Rica (San José, 1968); sections 135-145 of the Labour Code of 1943. Printed separately. See, e.g., Código de Trabajo, 2001-04, Eugenio Vargas Chavarría, Investigaciones Jurídicas, S.A., San José, Costa Rica.

<sup>24</sup> Act No. 95-15 issuing the Labour Code, of 12 January 1995. *Journal officiel*, of 23 February 1995, No. 8. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/39815/64951/F95CIV01.htm>.

<sup>25</sup> Decree No. 66-388, of 13 September 1966. Printed separately. Decree No. 96-203 concerning working time, of 7 March 1996. *Journal officiel*, of 9 May 1996, No. 19. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/44376/65016/F96CIV12.htm>.

<sup>26</sup> Collective inter-occupational agreement, of 20 July 1977. Printed separately.

<sup>27</sup> Labour Law, of 17 May 1995 (as amended). *Narodne novine*, Nos. 38/95; 54/95; 65/95; 17/01; 114/03. Available at: <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>; Commerce Law, of 31 January 1996 (as amended). *Narodne novine*, No. 49/03. Available at: <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>; Law on

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Czech Republic			X <sup>28</sup>	X <sup>29</sup>				
Denmark			X <sup>30</sup>	X <sup>31</sup>				
Dominica			X <sup>32</sup>					
Ecuador			X <sup>33</sup>					
El Salvador			X <sup>34</sup>					
Estonia			X <sup>35</sup>					
Ethiopia			X <sup>36</sup>					
Fiji								X <sup>37</sup>
Finland			X <sup>38</sup>					
France			X <sup>39</sup>					

Holidays, Memorial Days and Non-Working Days in the Republic of Croatia (version as of 15 November 2002). *Narodne novine*, No. 136/02. Available at: <http://www.nn.hr/sluzbeni-list/sluzbeni/index.asp>.

<sup>28</sup> Labour Code of the Czech Republic of 1965. Available at: [http://www.mpsv.cz/files/clanky/1126/No\\_65\\_1965.pdf](http://www.mpsv.cz/files/clanky/1126/No_65_1965.pdf); Law No. 1/1992 on wages, stand-by remuneration and average earnings (as amended by Law No. 590/1992, 10/1993, 37/1993, 74/1994, 118/1995, and 217/2000). Available at: [http://www.mpsv.cz/files/clanky/1128/No\\_1\\_1992.pdf](http://www.mpsv.cz/files/clanky/1128/No_1_1992.pdf).

<sup>29</sup> Decree No. 108/1994 of the Government on the implementation of the Labour Code (as amended by Decree No. 461/2000). Available at: [http://www.mpsv.cz/files/clanky/1127/No\\_108\\_1994.pdf](http://www.mpsv.cz/files/clanky/1127/No_108_1994.pdf).

<sup>30</sup> Consolidation Act No. 784 on the working environment, of 11 October 1999. *Lovtidende A*, 29 October 1999, Vol. 152, No. 784, pp. 5553-5570.

<sup>31</sup> Order No. 516 of the Ministry of Labour on the work by young persons, of 14 June 1996. *Lovtidende A*, 21 June 1996, Vol. 94, No. 516, pp. 2761-2773. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/47522/65077/E96DNK04.htm>; Order No. 324 of the Ministry of Labour on rest periods and rest days, of 23 May 2002. *Lovtidende A*, 31 May 2002, Vol. 70, No. 324, pp. 1976-1981.

<sup>32</sup> Labour Standards Act No. 2 of 1977. Laws of Dominica, Chap. 89:05; Labour Contracts Act No. 12 of 1983. Laws of Dominica, Chap. 89:04.

<sup>33</sup> Labour Code of Ecuador, of 30 June 1987. *Registro Oficial*, 16 August 1987, No. 650.

<sup>34</sup> The Constitution of the Republic of El Salvador, of 15 December 1983. *Diario Oficial*, 1983, Vol. 281, No. 234 (16 December 1983). See Gisbert H. Flanz (ed.): *Constitutions of the Countries of the World*, Vol. VI (Oceana Publications, Dobbs Ferry, New York, 1998); Labour Code of El Salvador (Legislative Decree No. 15 of 23 June 1972). *Diario Oficial*, 1972, Vol. 236, No. 142 (31 July 1972). Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/49592/65113/S95SLV01.htm>; Act on the organization and functions of the labour and social security sector, of 11 April 1996. *Diario Oficial*, 1996, Vol. 331, No. 81 (3 May 1996).

<sup>35</sup> Working and Rest Time Act, of 15 December 1993. Available at: <http://www.legaltext.ee/text/en/X1046.htm>.

<sup>36</sup> Labour Proclamation No. 377/2003. *Federal Negarit Gazeta*, 2004, No. 12.

<sup>37</sup> In *Fiji*, hours of work are set by nine Wage Councils in the wholesale and retail trades, building and civil and electrical engineering trades, hotel and catering trades, saw milling and logging industry, printing trades, mining and quarrying industry, manufacturing industry, and road transport industry. Another Wage Council has been established for security employees and the Government of Fiji is working towards the establishment of a Wages Council for professional workers. The Government of Fiji is in the process of reviewing all of its labour legislation and combining it into one act.

<sup>38</sup> Working Hours Act (No. 605/1996). Available at: <http://www.finlex.fi/pdf/saadkaan/E9960605.PDF>; The Employment Contracts Act (No. 55/2001) (as amended). Available at: <http://www.finlex.fi/pdf/saadkaan/E0010055.pdf>.

<sup>39</sup> Labour Code of 1973. Available at: <http://www.legifrance.gouv.fr/>.

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Gabon			X <sup>40</sup>	X <sup>41</sup>	X			
Georgia			X <sup>42</sup>					
Germany	X <sup>43</sup>	X <sup>44</sup>	X					
Greece			X <sup>45</sup>	X <sup>46</sup>	X <sup>47</sup>		X <sup>48</sup>	
Grenada			X <sup>49</sup>					
Honduras			X <sup>50</sup>					
Hungary			X <sup>51</sup>					
India	X <sup>52</sup>	X <sup>53</sup>	X	X				
Indonesia			X <sup>54</sup>	X <sup>55</sup>				

<sup>40</sup> Act No. 3/94, of 21 November 1994 (as amended by Law No. 12/2000, of 12 October 2000) issuing the Labour Code. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/39615/64948/F94GAB01.htm>.

<sup>41</sup> Presidential Decree No. 726/PR/MTEFP, of 29 June 1998, respecting derogations from statutory working hours. *Hebdo informations, Journal hebdomadaire d'informations et d'annonces légales*, 14 July 2001, No. 442, pp. 111-112; Presidential Decree No. 728/PR/MTEFP, of 29 June 1998, respecting the distribution of weekly working hours. *Hebdo informations, Journal hebdomadaire d'informations et d'annonces légales*, 14 July 2001, No. 442, pp. 112-113.

<sup>42</sup> Labour Code, of 28 June 1973 (as amended in 1997). Printed separately. An English translation of the amendments is available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/58433/65217/E97GEO03.htm>.

<sup>43</sup> Hours of Work Act, of 6 June 1994. *Arbeitszeitgesetz*, 6.6.1994 (BGBl. I, S. 1170-1183).

<sup>44</sup> In the case of civil servants, the respective standards are prescribed by the federal Civil Service Act and the relevant civil service legislation of the federal states (Länder). Civil Service Act, of 14 June 1953 (version of 31 March 1999, as amended by Law of 21 August 2002). *Beamtengesetz*, 14.6.1953 (BGBl. I, S.551) *in der Fassung vom 31.3.1999* (BGBl. I, S.675), *zuletzt geändert durch Gesetz vom 21.8.2002* (BGBl. I, S.3322).

<sup>45</sup> Sections 4 and 5 of Act No. 2874/2000 on the arrangement of working time. *Official Gazette*, No. 286/A (29 December 2000).

<sup>46</sup> See, e.g., Presidential Decree 88/99 concerning minimum rest. *Official Gazette*, No. 94A (13 May 1994); Legislative Decree 515/70 concerning working time limits of workers. *Official Gazette*, No. 95/A (22 April 1970).

<sup>47</sup> Article 6 of the National General Labour Collective Agreement of 1984.

<sup>48</sup> Arbitration Award No. 25/83 of the Secondary Administrative Arbitration Court of Athens.

<sup>49</sup> Employment Act No. 14 of 1999. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/53925/65176/E99GRD01.htm>.

<sup>50</sup> Labour Code of 1959. See, e.g., Código del Trabajo (Secretaría de Trabajo y Seguridad Social, Tegucigalpa, Honduras, 1999).

<sup>51</sup> Labour Code (Act XXII of 1992). *Magyar Közlöny*, 1992, No. 45, pp. 1613-1642.

<sup>52</sup> Minimum Wages Act, 1948; Minimum Wage (Central) Rules, 1950. See *A manual of labour laws containing important labour acts and rules*, Vol. 2 (14th edition, 1994).

<sup>53</sup> See, e.g., Delhi Shops & Establishments Act, 1954; Kerala Shops and Commercial Establishment Act, 1960; Punjab Shops and Commercial Establishment Act, 1958; Andaman and Nicobar Islands Shops and Establishment Regulations, 2004. The Government's report also indicates that the Government of Gujarat has amended the Minimum Wages Act, 1948 and added a schedule respecting employment in shops and commercial establishment.

<sup>54</sup> Act No. 13/2003 concerning manpower. Printed separately.

<sup>55</sup> Decree (*Kepmenakertrans*) No. KEP 233/MEN/2003 of the Minister of Manpower and Transportation concerning the type and characteristics of work done continuously. Printed separately. Decree (*Kepmenakertrans*) No. 234/MEN/2003 concerning working hours and rest hours and energy and mining sources. Printed separately.

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Italy			X <sup>56</sup>					
Jamaica			X <sup>57</sup>	X <sup>58</sup>				
Japan			X <sup>59</sup>					
Jordan			X <sup>60</sup>					
Kenya			X <sup>61</sup>	X <sup>62</sup>	X <sup>63</sup>			
Latvia			X <sup>64</sup>					
Lesotho			X <sup>65</sup>					
Lithuania			X <sup>66</sup>					
Madagascar			X <sup>67</sup>					
Malaysia	X <sup>68</sup>		X	X				

Ministerial Decree No. 72/Men/194 concerning the principle of overtime pay. Printed separately; Joint Statement of the Minister of Manpower and Police Commandant, Nos. KEP 275/Men/1989 and POL. Kep./04/V.1989 concerning shift and rest hours and security officers guidance.

<sup>56</sup> Legislative Decree No. 66 on the implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time, of 8 April 2003. *Gazzetta Ufficiale*, of 14 April 2003, No 61/L, pp. 68-88.

<sup>57</sup> Shops and Offices Act (1961). *Laws of Jamaica*, Vol. XVII (1989).

<sup>58</sup> National Minimum Wage Order. Printed separately.

<sup>59</sup> Labour Standards Law, No. 49 of 7 April 1947. Available at: [http://www.jil.go.jp/english/laborinfo/library/documents/llj\\_law1-rev.pdf](http://www.jil.go.jp/english/laborinfo/library/documents/llj_law1-rev.pdf) ; The Law concerning Working Hours, Leave of Absence of Regular Service Employees, No. 33 of 1994 (the "Working Hours Law"). *Kampoo*, 15 June 1994, No. 1420.

<sup>60</sup> Act No. 8 of 1996 promulgating the Labour Code. *Al-Jarida Al-Rasmiya*, 1996, No. 4113.

<sup>61</sup> Regulation of Wages and Conditions of Employment Act (Chapter 229). *Laws of Kenya* (revised edition), 1980; The Shop Hours Act (Chapter 231). *Laws of Kenya* (revised edition), 1983; The Mombassa Shop Hours Act (Chapter 232). *Laws of Kenya* (revised edition), 1984.

<sup>62</sup> See, e.g., Personnel Circular No. 2, of the Directorate of Personnel Management of the Office of the President, of 3 May 1983. Printed separately. This Circular prescribes office hours in the Government Service.

<sup>63</sup> See, e.g., Memorandum of Agreement of Terms and Conditions of Employment Negotiated Between Unilever Kenya Limited and Kenya Chemical and Allied Workers' Union (1 July 2003-30 June 2006).

<sup>64</sup> Labour Code of Latvia of 20 June 2001. Available at: <http://www.ttc.lv/New/lv/tulkojumi/E0223.doc> .

<sup>65</sup> Labour Code of 1992 (Order No. 24 of 1992). *Lesotho Government Gazette, Extraordinary*, 1992, Vol. XXXVII, No. 118, pp. 1195-1441. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/31536/64865/E92LSO01.htm> .

<sup>66</sup> Labour Code of Lithuania of 4 June 2002. *Vedomosti Litovskoi Respubliki*, 2002, No. 64-2569. Available at: [http://www3.lrs.lt/c-bin/eng/preps2?Condition1=191770&Condition2=labour\\_code](http://www3.lrs.lt/c-bin/eng/preps2?Condition1=191770&Condition2=labour_code) .

<sup>67</sup> Act No. 94-029 issuing the Labour Code, of 25 August 1995. *Journal officiel*, 25 September 1995, No. 2324, pp. 2564-2577. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/41776/64975/F95MDG01.htm> .

<sup>68</sup> Employment Act of 1955 (Act No. 265). LS 1955-Mal. 2, 1956-Mal.1; Employment (Limitation of Overtime Work) Regulations 1980. Printed separately.



Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Malta			X <sup>69</sup>	X <sup>70</sup>				
Mauritius			X <sup>71</sup>	X <sup>72</sup>				
Mexico	X <sup>73</sup>		X					
Republic of Moldova			X <sup>74</sup>		X <sup>75</sup>	X		
Morocco			X <sup>76</sup>	X <sup>77</sup>				
Namibia			X <sup>78</sup>					
Nepal			X <sup>79</sup>					
Niger			X <sup>80</sup>	X <sup>81</sup>	X <sup>82</sup>			

<sup>69</sup> Employment and Industrial Relations Act (Act XXII of 2002). Available at: [http://docs.justice.gov.mt/lom/legislation/english/leg/vol\\_14/chapt452.pdf](http://docs.justice.gov.mt/lom/legislation/english/leg/vol_14/chapt452.pdf).

<sup>70</sup> The Organization of Working Time Regulations. Available at: <http://docs.justice.gov.mt/lom/Legislation/English/SubLeg/452/87.PDF>; and Wage Regulation Orders (WRO) prescribing the conditions of employment in the various sectors.

<sup>71</sup> Labour Act of 1975 No. 50 (as amended). Available at: <http://ncb.intnet.mu/lireh/ministry/labact.htm>.

<sup>72</sup> See, e.g., Attorneys' and Notaries' Employees (Remuneration Order) Regulations 1994; Baking Industry (Remuneration Order) Regulations 1993; Blockmaking, Construction, Stone Crushing and Related Industries (Remuneration Order) Regulations 1994; Electrical, Engineering and Mechanical Workshops (Remuneration Order) Regulations 1983. Available at: <http://ncb.intnet.mu/lireh/ministry/orders.htm>.

<sup>73</sup> Political Constitution of the United States of Mexico, of 5 February 1917 (as amended). See Albert P. Blaustein and Gisbert H. Flanz (eds.): *Constitutions of the Countries of the World*, Vol. XII (Oceana Publications, Dobbs Ferry, New York, 1988 and 1998 Supplement); Federal Labour Act, of 2 December 1969 (as amended). See *Ley Federal del Trabajo* (9th edition), Secretaria del Trabajo y Prevision Social, 1992.

<sup>74</sup> Constitution of the Republic of Moldova, of 29 July 1994. See Gisbert H. Flanz (ed.): *Constitutions of the Countries of the World*, Vol. XII (Oceana Publications, New York, 1997); Labour Code of Moldova, of 28 March 2003 (Law No. 154-XV). *Monitorul Oficial*, 2003, No. 159-162. Available at: <http://www.ilo.org/dyn/natlex/docs/SERIAL/64896/63849/F1780758090/MDA64896ENG.pdf>

<sup>75</sup> Collective labour agreements concluded at the level of the sector, territory, group of enterprises or at a particular enterprise.

<sup>76</sup> Labour Code of Morocco of 2003. *Bulletin officiel*, of 8 December 2003.

<sup>77</sup> Dahir regulating hours of work, of 18 June 1936. See *Répertoire de la législation du travail*, pp. 363-364 (El Fekkak, Mahmed, Librairie Al Wahda Al Arabia, Casablanca, Maroc, 1994); Order of the Council of Ministers, of 15 March 1937, on the general conditions of application of Dahir of 18 June 1936 regulating hours of work. See *Répertoire de la législation du travail*, pp. 364-372 (El Fekkak, Mahmed, Librairie Al Wahda Al Arabia, Casablanca, Maroc, 1994); Order of the Council of Ministers, of 12 April 1948 on the application of Dahir regulating hours of work in cinematographic establishments. Printed separately.

<sup>78</sup> Labour Act, 1992 (No. 6 of 1992). *Government Gazette of the Republic of Namibia*, 1992, No. 388. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/29328/64850/E92NAM01.htm>.

<sup>79</sup> Labour Act of 1991. Printed separately. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/30019/64854/E92NPL01.htm>.

<sup>80</sup> Ordinance 96-039 issuing the Labour Code, of 29 June 1996. Code du Travail (Niger, 2000). Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/44750/65033/F96NER01.htm>.

<sup>81</sup> See, e.g., Presidential Decree No. 67-126/MFP/T issued under the Labour Code (general provisions), of 7 September 1967. *République du Niger: Recueil de lois et règlements* (2nd edition, 1994) (section 75.2).

<sup>82</sup> Inter-occupational Collective Agreement, of 15 December 1972. *République du Niger: Recueil de lois et règlements* (2nd edition, 1994) (section 75.3).

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Nigeria	X <sup>83</sup>		X	X				
Norway			X <sup>84</sup>					
Oman			X <sup>85</sup>	X				
Panama			X <sup>86</sup>					
Papua New Guinea			X <sup>87</sup>	X <sup>88</sup>				
Philippines			X <sup>89</sup>	X <sup>90</sup>				
Poland			X <sup>91</sup>		X <sup>92</sup>			
Portugal			X <sup>93</sup>	X <sup>94</sup>				
Qatar			X <sup>95</sup>					

<sup>83</sup> Labour Act, Chapter 198. *Laws of the Federation of Nigeria*, 1990. Available at: <http://www.nigeria-law.org/LabourAct.htm> ; Federal Government: Public Service Rules. Printed separately; Circular No. B 624-42/XIII/646 of the Federal Ministry of Establishment concerning hours of work for civil servants, of 7 April 1976. Printed separately.

<sup>84</sup> Act No. 4 of 4 February 1977 relating to worker protection and working environment. *Norsk Lovtidend*, 14 February 1977. Available at: <http://www.ub.uio.no/ujur/ulovdata/lov-19770204-004-eng.pdf> .

<sup>85</sup> Labour Code of Oman, approved by Decree of the Sultan No. 25/2003; Law No. 8/80 on public officials, of 12 February 1980.

<sup>86</sup> Article 66 of the Political Constitution of Panama of 1972. See Gisbert H. Flanz (ed.): *Constitutions of the Countries of the World*, Vol. XIV (Oceana Publications, New York, 1995); Labour Code of Panama, of 30 December 1971 (as amended). *Gaceta Oficial*, 18 February 1972. Available at: [http://www.legalinfo-panama.com/legislacion/laboral/codtrab\\_index.htm](http://www.legalinfo-panama.com/legislacion/laboral/codtrab_index.htm) .

<sup>87</sup> Employment Act, 1978. Printed separately. Public Service Management Act, 1995. Printed separately.

<sup>88</sup> National General Orders No. 13. Printed separately.

<sup>89</sup> Labor Code of the Philippines, of 1 May 1974 (Presidential Decree No. 442) (as amended). *Official Gazette*, of 10 June 1974.

<sup>90</sup> Rules to Implement the Labour Code. See Vicente B. Foz (ed.): *The Labour Code of the Philippines (as amended) and its Implementing Rules and Regulations with Appendices*, pp. 72-624 (1998).

<sup>91</sup> Labour Code, of 26 June 1974 (as subsequently amended). *Dziennik Ustaw*, 1974, No. 24(141); 1975, No. 16(91); 1981, No. 6(23); 1982, No. 31(214); 1985, No. 20(85); 1985, No. 35(162); 1986, No. 42(201); 1987, No. 21(124); 1988, No. 20(134); 1989, No. 20(107); 1989, No. 35(192); 1990, No. 4(19); 1990, No. 43(251); 1991, No. 53(226); 1991, No. 55(236) and (237); 1994, No. 113(547); 1995, No. 16(77); 1996, No. 24(110); 1996, No. 87(396); 1996, No. 147(687); Law on Civil Service, of 18 December 1998. Available at: [http://www.sigmaweb.org/PDF/Laws\\_CS/Poland\\_CS\\_Dec98.pdf](http://www.sigmaweb.org/PDF/Laws_CS/Poland_CS_Dec98.pdf) or at: <http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN007218.pdf> .

<sup>92</sup> Collective agreements registered by the Ministry of Economy, Labour and Social Policy.

<sup>93</sup> Labour Code of Portugal, approved by Law No. 99/2003 of 27 August 2003. *Diário da República*, of 27 August 2003, No. 197. Available at: [http://www.inst-informatica.pt/v20/legislacao/docs/Lei99\\_2003-27Ago-CodTrabalho.pdf](http://www.inst-informatica.pt/v20/legislacao/docs/Lei99_2003-27Ago-CodTrabalho.pdf) .

<sup>94</sup> Legislative Decree No. 259/98 respecting the rules and general principles for hours of work and working time in the public administration, of 18 August 1998. *Diário da República*, of 18 August 1998, No. 189.

<sup>95</sup> Labour Law of 2004. English version available at: [http://www.thepeninsulaqatar.com/Display\\_news.asp?section=Local\\_News&month=May2004&file=Local\\_News20040520486.xml](http://www.thepeninsulaqatar.com/Display_news.asp?section=Local_News&month=May2004&file=Local_News20040520486.xml) .

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Romania			X <sup>96</sup>		X <sup>97</sup>			
Russian Federation	X <sup>98</sup>		X	X				
Senegal			X <sup>99</sup>	X <sup>100</sup>	X <sup>101</sup>			
Singapore			X <sup>102</sup>					
Slovenia			X <sup>103</sup>		X <sup>104</sup>			
South Africa			X <sup>105</sup>					
Sudan			X <sup>106</sup>					
Suriname			X <sup>107</sup>					
Sweden			X <sup>108</sup>					
Switzerland	X <sup>109</sup>		X					

<sup>96</sup> Constitution of Romania of 1991 (as amended). Available at: <http://www.cdep.ro/pls/dic/site.page?id=372&idl=2> ; Labour Code of Romania (Act No. 53/2002). *Monitorul Oficial*, 2003, No. 72. Available at: <http://www.dsclex.ro/coduri/cm.htm> ; Act respecting the status of public officials, of 8 December 1999 (Act No. 188/1999). *Monitorul Oficial*, 2000, No. 293. Available at: <http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN012616.pdf> .

<sup>97</sup> Collective labour agreement on the national level for 2003. Printed separately.

<sup>98</sup> Labour Code of the Russian Federation, of 30 December 2001, No. 197-FZ. *Sobr. Zakonod. RF*, 2002, No. 1(3). Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/60535/65252/E01RUS01.htm> .

<sup>99</sup> Law No. 97-17 issuing the Labour Code, of 1 December 1997. Available at: <http://www.gouv.sn/textes/TRAVAIL.cfm> .

<sup>100</sup> Decree No. 70-183 prescribing the general regime of derogations from legal working hours, of 20 February 1970. *Journal officiel*, 1970, No. 4091; Decree No. 70-184 prescribing the methods of remuneration for additional hours, of 20 February 1970. *Journal officiel*, 1970, No. 4091; Local Order No. 215 I.T. determining of the methods of authorization of additional hours worked with a view to maintaining or increasing output, of 26 June 1953.

<sup>101</sup> National Inter-occupational Collective Agreement.

<sup>102</sup> Employment Act No. 17 of 1968 (Chapter 91). Available at: <http://statutes.agc.gov.sg/> or at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/3210/64799/E81SGP01.htm> .

<sup>103</sup> Employment Act of 2002. *Uradni List*, No. 42/2002; Parental Protection and Family Benefit Act of 2001. *Uradni List*, No. 97/2001; No. 76/2003.

<sup>104</sup> For example, General Collective Agreement for Commercial Activities; General Collective Agreement for Non-Commercial Activities.

<sup>105</sup> Basic Conditions of Employment Act, No. 75 of 1997. *Government Gazette*, 5 December 1997, No. 18491. Available at: <http://www.info.gov.za/gazette/acts/1997/a75-97.pdf> ; Labour Relations Act, No. 66 of 1995. *Government Gazette*, 13 December 1995, No. 16861. Available at: <http://www.info.gov.za/gazette/acts/1995/a66-95.htm> .

<sup>106</sup> Labour Act of 1997. Printed separately. Unofficial translation available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/49122/65103/E97SDN01.htm> .

<sup>107</sup> Labour Act of 1963 (as amended). *Official Bulletin of Acts and Decrees*, 1963, No. 163; 1983, No. 91.

<sup>108</sup> Working Hours Act. SFS 1982:673; Work Environment Act. SFS 1977:1160.

<sup>109</sup> Federal Act respecting work in industry, by artisans and in commerce of 13 March 1964 ("Labour Act"). RS 822.11. Available at: <http://www.admin.ch/ch/f/rs/8/822.11.fr.pdf> .

Country	Federal States: federal level	Federal States: state level	Laws	Regulations	Collective agreements	Internal regulations adopted by employers	Arbitration awards	Other means
Thailand			X <sup>110</sup>					
Tunisia			X <sup>111</sup>		X <sup>112</sup>			
Turkey			X <sup>113</sup>					
United Arab Emirates	X <sup>114</sup>		X	X				
United Kingdom				X <sup>115</sup>				
United States	X <sup>116</sup>		X	X				
Viet Nam			X <sup>117</sup>	X <sup>118</sup>				
Zimbabwe			X <sup>119</sup>		X <sup>120</sup>			

<sup>110</sup> Labour Protection Act B.E. 2541 (1998). *Government Gazette*, 1998, Vol. 52, No. 3. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/49727/65119/E98THA01.htm>.

<sup>111</sup> Labour Code of Tunisia of 1966 (as amended). *Journal officiel*, 1996, No. 59. Available at: <http://www.jurisitetunisie.com/tunisie/codes/ct/menu.html>.

<sup>112</sup> Framework Collective Agreement, of 20 March 1973. According to the Government's report, currently there are 51 sectoral collective agreements.

<sup>113</sup> Labour Act No. 4857, of 22 May 2003. *Resmi Gazete*, 10 June 2003, No. 25134, pp. 1-32. Available at: <http://www.ilo.org/dyn/natlex/docs/SERIAL/64083/63017/F1027431766/TUR64083.pdf>.

<sup>114</sup> Federal Law No. 8 (1980) regulating labour relations. *Al-Jarida al-Rasmiya*, 1980-04; Ministerial Order No. 46/1 of 1980 specifying jobs in which women may be employed during the period between 10 p.m. and 7 a.m.; Ministerial Order No. 47/1 of 1980 exempting certain establishments from certain provisions of the Labour Relations Law in respect of the employment of young persons and women; Ministerial Order No. 49/1 of 1980 determining the activities which require continuous non-stop work and regulating methods for granting workers periods for resting, eating and praying; Ministerial Order No. 4/1 of 1981 specifying dangerous operations in which normal hours of work prescribed by law may be introduced. Printed separately.

<sup>115</sup> Working Time Regulations 1998. SI 1998, No. 1833. Available at: [http://www.legislation.hmso.gov.uk/cgi-bin/htm\\_hl.pl?DB=hms-new&STEMMER=en&WORDS=work+time+regul+1998+&COLOUR=Red&STYLE=s&URL=http://www.hmso.gov.uk/si/si1998/19981833.htm#muscat\\_highlighter\\_first\\_match](http://www.legislation.hmso.gov.uk/cgi-bin/htm_hl.pl?DB=hms-new&STEMMER=en&WORDS=work+time+regul+1998+&COLOUR=Red&STYLE=s&URL=http://www.hmso.gov.uk/si/si1998/19981833.htm#muscat_highlighter_first_match).

<sup>116</sup> Fair Labour Standards Act of 1938, 29 U.S.C. section 201 et seq. (2000). Available at: <http://www2.dol.gov/esa/regs/statutes/whd/0002.fair.pdf>; Wage Payments Under the Fair Labor Standards Act of 1938, 29 C.F.R. Parts 775-794 (1967). Available at: [http://www2.dol.gov/dol/allcfr/ESA/Title\\_29/Part\\_531/toc.htm](http://www2.dol.gov/dol/allcfr/ESA/Title_29/Part_531/toc.htm).

<sup>117</sup> Labour Code of Viet Nam, of 23 June 1994 (as amended). Available at: <http://www.global-standards.com/Resources/VNLaborCode1994-2002.pdf>.

<sup>118</sup> Government Decree No. 195/CP on the implementation of some articles of the Labour Code regulating hours of work and rest, of 31 December 1994 (as amended by Decree No. 109/2002/ND-CP, of December 2002). Printed separately. Original version available at: <http://www.osh.netnam.vn/html/LUATPHAP/boluat/Engnd195.htm>; Decision of the Prime Minister No. 188/199/QD-TTg concerning the 40-hour week which shall apply to civil servants and workers employed in administrative agencies, of 17 September 1999. Printed separately; Circular No. 15/2003/TT-MOLISA of the Ministry of Labour, Disabled Persons and Social Affairs issuing the guidelines for the implementation of overtime under Government Decree No. 109/2002/ND-CP, of 3 June 2003; Circular No. 16/2003/TT-MOLISA of the Ministry of Labour, Disabled Persons and Social Affairs concerning the implementation of hours of work and rest for workers employed in seasonal work and export processing (as permanent exceptions), of 3 June 2003. Printed separately.

<sup>119</sup> Labour Relations Act [Chapter 28:01] (Acts 16/1985; 12/1992; 20/1994). Printed separately. Available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/1850/64796/E96ZWE01.htm>.

<sup>120</sup> National Employment Council for the Commercial Sectors of Zimbabwe: Collective bargaining agreement for commercial sectors (registered under the terms of section 59 of the Labour Relations Act); Collective Bargaining Agreement: Engineering and Iron and Steel Industry, Statutory Instrument 282 of 1990.

## Appendix VII

**Table of reports due and received on Conventions Nos. 1 and 30**

Members	Convention No. 1	Convention No. 30
Afghanistan	...	...
Albania	...	...
Algeria	<b>Received</b>	<b>Received</b>
Angola	<i>Ratified</i>	...
Antigua and Barbuda	...	...
Argentina	<i>Ratified</i>	<i>Ratified</i>
Armenia	...	...
Australia	<b>Received</b>	<b>Received</b>
Austria	<i>Ratified</i>	<i>Ratified</i>
Azerbaijan	...	...
Bahamas	...	...
Bahrain	<b>Received</b>	<b>Received</b>
Bangladesh	<i>Ratified</i>	<b>Received</b>
Barbados	...	...
Belarus	<b>Received</b>	<b>Received</b>
Belgium	<i>Ratified</i>	<b>Received</b>
Belize	...	...
Benin	<b>Received</b>	<b>Received</b>
Bolivia	<i>Ratified</i>	<i>Ratified</i>
Bosnia and Herzegovina	...	...
Botswana	<b>Received</b>	<b>Received</b>
Brazil	<b>Received</b>	<b>Received</b>
Bulgaria	<i>Ratified</i>	<i>Ratified</i>
Burkina Faso	...	...
Burundi	<i>Ratified</i>	...
Cambodia	<b>Received</b>	<b>Received</b>
Cameroon	...	...
Canada	<i>Ratified</i>	<b>Received</b>
Cape Verde	...	...
Central African Republic	<b>Received</b>	<b>Received</b>
Chad	...	...
Chile	<i>Ratified</i>	<i>Ratified</i>
China	<b>Received</b>	<b>Received</b>

Members	Convention No. 1	Convention No. 30
Colombia	<i>Ratified</i>	<i>Ratified</i>
Comoros	<i>Ratified</i>	...
Congo	...	...
Costa Rica	<i>Ratified</i>	<b>Received</b>
Côte d'Ivoire	<b>Received</b>	<b>Received</b>
Croatia	<b>Received</b>	<b>Received</b>
Cuba	<i>Ratified</i>	<i>Ratified</i>
Cyprus	...	...
Czech Republic	<i>Ratified</i>	<b>Received</b>
Democratic Republic of the Congo	...	...
Denmark	<b>Received</b>	<b>Received</b>
Djibouti	<i>Ratified</i>	...
Dominica	<b>Received</b>	<b>Received</b>
Dominican Republic	<i>Ratified</i>	...
Ecuador	<b>Received</b>	<b>Received</b>
Egypt	<i>Ratified</i>	<i>Ratified</i>
El Salvador	<b>Received</b>	<b>Received</b>
Equatorial Guinea	<i>Ratified</i>	<i>Ratified</i>
Eritrea	...	...
Estonia	<b>Received</b>	<b>Received</b>
Ethiopia	<b>Received</b>	<b>Received</b>
Fiji	<b>Received</b>	<b>Received</b>
Finland	<b>Received</b>	Denounced
France	<i>Ratified</i>	<b>Received</b>
Gabon	<b>Received</b>	<b>Received</b>
Gambia	...	...
Georgia	<b>Received</b>	<b>Received</b>
Germany	<b>Received</b>	<b>Received</b>
Ghana	<i>Ratified</i>	<i>Ratified</i>
Greece	<i>Ratified</i>	<b>Received</b>
Grenada	<b>Received</b>	<b>Received</b>
Guatemala	<i>Ratified</i>	<i>Ratified</i>
Guinea	...	...
Guinea-Bissau	<i>Ratified</i>	...
Guyana	...	...
Haiti	<i>Ratified</i>	<i>Ratified</i>
Honduras	<b>Received</b>	<b>Received</b>
Hungary	<b>Received</b>	<b>Received</b>
Iceland	<b>Received</b>	<b>Received</b>
India	<i>Ratified</i>	<b>Received</b>
Indonesia	<b>Received</b>	<b>Received</b>
Islamic Republic of Iran	...	...

Members	Convention No. 1	Convention No. 30
Iraq	<i>Ratified</i>	<i>Ratified</i>
Ireland	<b>Received</b>	<b>Received</b>
Israel	<i>Ratified</i>	<i>Ratified</i>
Italy	<i>Ratified</i>	<b>Received</b>
Jamaica	<b>Received</b>	<b>Received</b>
Japan	<b>Received</b>	<b>Received</b>
Jordan	<b>Received</b>	<b>Received</b>
Kazakhstan	...	...
Kenya	<b>Received</b>	<b>Received</b>
Kiribati	...	...
Republic of Korea	...	...
Kuwait	<i>Ratified</i>	<i>Ratified</i>
Kyrgyzstan	...	...
Lao People's Democratic Republic	...	...
Latvia	<i>Ratified</i>	<b>Received</b>
Lebanon	<i>Ratified</i>	<i>Ratified</i>
Lesotho	<b>Received</b>	<b>Received</b>
Liberia	...	...
Libyan Arab Jamahiriya	<i>Ratified</i>	<b>Received</b>
Lithuania	<i>Ratified</i>	<b>Received</b>
Luxembourg	<i>Ratified</i>	<i>Ratified</i>
Madagascar	<b>Received</b>	<b>Received</b>
Malawi	...	...
Malaysia	<b>Received</b>	<b>Received</b>
Mali	...	...
Malta	<i>Ratified</i>	<b>Received</b>
Mauritania	<b>Received</b>	<b>Received</b>
Mauritius	<b>Received</b>	<b>Received</b>
Mexico	<b>Received</b>	<i>Ratified</i>
Republic of Moldova	<b>Received</b>	<b>Received</b>
Mongolia	...	...
Morocco	<b>Received</b>	<i>Ratified</i>
Mozambique	<i>Ratified</i>	<i>Ratified</i>
Myanmar	<i>Ratified</i>	<b>Received</b>
Namibia	<b>Received</b>	<b>Received</b>
Nepal	<b>Received</b>	<b>Received</b>
Netherlands	...	...
New Zealand	Denounced	Denounced
Nicaragua	<i>Ratified</i>	<i>Ratified</i>
Niger	<b>Received</b>	<b>Received</b>
Nigeria	<b>Received</b>	<b>Received</b>
Norway	<b>Received</b>	<i>Ratified</i>

Members	Convention No. 1	Convention No. 30
Oman	<b>Received</b>	<b>Received</b>
Pakistan	<i>Ratified</i>	...
Panama	<b>Received</b>	<i>Ratified</i>
Papua New Guinea	<b>Received</b>	<b>Received</b>
Paraguay	<i>Ratified</i>	<i>Ratified</i>
Peru	<i>Ratified</i>	...
Philippines	<b>Received</b>	<b>Received</b>
Poland	<b>Received</b>	<b>Received</b>
Portugal	<i>Ratified</i>	<b>Received</b>
Qatar	<b>Received</b>	<b>Received</b>
Romania	<i>Ratified</i>	<b>Received</b>
Russian Federation	...	...
Rwanda	...	...
Saint Kitts and Nevis	...	...
Saint Lucia	...	...
Saint Vincent and the Grenadines	...	...
San Marino	...	...
Sao Tome and Principe	...	...
Saudi Arabia	<i>Ratified</i>	<i>Ratified</i>
Senegal	<b>Received</b>	<b>Received</b>
Serbia and Montenegro	...	...
Seychelles	...	...
Sierra Leone	...	...
Singapore	<b>Received</b>	<b>Received</b>
Slovakia	<i>Ratified</i>	...
Slovenia	<b>Received</b>	<b>Received</b>
Solomon Islands	...	...
Somalia	...	...
South Africa	<b>Received</b>	<b>Received</b>
Spain	<i>Ratified</i>	<i>Ratified</i>
Sri Lanka	...	...
Sudan	<b>Received</b>	<b>Received</b>
Suriname	<b>Received</b>	<b>Received</b>
Swaziland	...	...
Sweden	<b>Received</b>	<b>Received</b>
Switzerland	<b>Received</b>	<b>Received</b>
Syrian Arab Republic	<i>Ratified</i>	<i>Ratified</i>
Tajikistan	...	...
United Republic of Tanzania	...	...
Thailand	<b>Received</b>	<b>Received</b>
The Former Yugoslavia Republic of Macedonia	...	...



Members	Convention No. 1	Convention No. 30
Democratic Republic of Timor-Leste	...	...
Togo	...	...
Trinidad and Tobago	...	...
Tunisia	<b>Received</b>	<b>Received</b>
Turkey	<b>Received</b>	<b>Received</b>
Turkmenistan	...	...
Uganda	...	...
Ukraine	...	...
United Arab Emirates	<i>Ratified</i>	<b>Received</b>
United Kingdom	<b>Received</b>	<b>Received</b>
United States	<b>Received</b>	<b>Received</b>
Uruguay	<i>Ratified</i>	<i>Ratified</i>
Uzbekistan	...	...
Vanuatu	...	...
Venezuela	<i>Ratified</i>	...
Viet Nam	<b>Received</b>	<b>Received</b>
Yemen	...	...
Zambia	...	...
Zimbabwe	<b>Received</b>	<b>Received</b>