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# Occupational Safety and Health

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## Report III (Part 1B)

General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981

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

# **ILO standards on occupational safety and health**

**Promoting a safe and healthy working environment**

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*Throughout the survey, member States which have ratified the Convention and for which the Convention is currently in force are listed in italics. Member States which have also ratified the Protocol are indicated in **bold italics**. The numbers in brackets in the footnotes refer to the national legislation listed by country in Appendix III.*

## Summary

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The promotion of decent, safe and healthy working conditions and environment has been a constant objective of International Labour Organization (ILO) action since the Organization was founded in 1919. A significant body of international instruments and guidance documents has been developed by the ILO over the past 90 years to assist constituents in strengthening their capacities to prevent and manage workplace hazards and risks. The present survey examines three central ILO instruments in this area: the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to Convention No. 155. These instruments provide a blueprint for setting up and implementing comprehensive national occupational safety and health (OSH) systems based on prevention and continuous improvement.

Despite global efforts to address OSH concerns, an estimated 2 million work-related fatalities and 330 million work-related accidents still occur each year. Continued and renewed efforts are required to address this challenge. The present survey highlights the progress made by ILO member States, the continuing and increased relevance of the instruments at issue and the basic strategy they advocate. These instruments were designed to be applied progressively and their application can be adapted to specific national conditions and developments. Although further efforts should be deployed to ensure that OSH protection is extended to all workers and all branches of economic activity, the flexibility clauses and principle of progressive application provided for in Convention No. 155 should permit an increasing number of countries to consider ratifying and giving effect to it.

The strategy advocated by Convention No. 155 and Recommendation No. 164 calls for action in essential areas pertaining to OSH, namely for the formulation, implementation and periodical review of a national OSH policy; the full participation at all levels of employers, workers and their respective organizations, as well as other stakeholders; the definition of national institutional responsibilities and of the respective responsibilities, duties and rights of employers, workers and their representatives; and the requirements regarding knowledge, education and training, and information.

A significant number of countries, particularly among developing countries, report that they are in the process of formulating or updating their national policies, and developing their regulatory and enforcement systems. Several countries are also in the process of developing, reorienting or implementing policies, focusing on and targeting emerging issues such as stress and musculoskeletal disorders (MSDs), assistance to small and medium-sized enterprises (SMEs), and the promotion of best practices.

While further information, in particular from the social partners, would have allowed it to get a more reliable global picture of the practical application of OSH requirements, the Committee of Experts concludes that a majority of ILO member States, to a large and increasing extent, give effect to the provisions not only of the

Convention, but also of the Recommendation. This level of involvement is a clear indication that these instruments have a place at the heart of national action in the area of OSH. This survey also highlights the crucial importance of tracing progress in the implementation of national OSH policies through the collection and analysis of data on their practical application and statistics on occupational accidents and diseases, and that vigorous promotional efforts are called for to increase the ratification rate of the Protocol and its implementation in practice. ILO advice, assistance and technical cooperation may be crucial for many member States to enable them further to improve their national OSH systems, and efforts should be made to provide such assistance.

The relevance and importance of the national policy and systems approach in Convention No. 155 has been further reaffirmed through the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and its Recommendation (No. 197). These instruments complement the instruments in this survey by providing further guidance on the systems approach to the management of OSH at all levels and the progressive establishment of a preventative safety and health culture based on the continuous provision of OSH information, training and education. The increasing rate of ratification of Convention No. 187 is a clear endorsement by the tripartite constituents of the ILO's timely action in the area of OSH, and indicates a renewed interest in the prevention of occupational accidents and diseases and improving working conditions and environment. In view of their close linkage, further efforts should be made to promote Convention No. 155 together with Convention No. 187. The joint support by the social partners of these efforts is an essential element in the process of achieving decent, safe and healthy working conditions and environment.

The Committee of Experts has also identified a number of challenges and opportunities that should be taken into account for future action in this area. These include: encouraging MNEs to serve as role models in this area by maintaining the highest OSH standards; encouraging enterprises to lead research into causes of OSH hazards and also to support the implementation of workplace strategies through corporate social responsibility initiatives; underscoring the importance of facilitating access to OSH information guidance and training for SMEs; developing practical and viable indicators – with due account taken of the ILO decent work indicators – to demonstrate progress in this area; extending OSH protection to the informal economy; promoting social dialogue which is an essential prerequisite in this area; improving the collection and quality of occupational accident and disease statistics; promoting research and methodologies regarding the economic impact of a sound implementation of OSH requirements; and promoting international cooperation regarding OSH.

The Committee of Experts expresses the hope that this survey will contribute to a better understanding and fuller application of the provisions of these instruments and enable them to have an effective impact at the level of the undertaking. It underscores that the promotion of OSH is a shared responsibility. Governments, employers and workers and their organizations all have a role to play in the promotion of a preventative safety and health culture and the development and enhancement of measures for social protection and healthy and safe working conditions as provided, inter alia, in the ILO Declaration of Philadelphia and confirmed in the ILO Declaration on Social Justice for a Fair Globalization. Together with Convention No. 187 and Recommendation No. 197, Convention No. 155, its 2002 Protocol and Recommendation No. 164 continue to have a defining role and should be promoted, and given effect to, as a matter of priority.

## List of abbreviations

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ACGIH	American Conference of Governmental Industrial Hygienists
AFNOR	French Standards Association
AFSSET	French Agency for Environmental and Occupational Health Safety
ANSI	American National Standards Institute
ASCC	Australian Safety and Compensation Council
ASEAN	Association of Southeast Asian Nations
ASTM	American Society for Testing and Materials (now ASTM International)
ATDSDR	Agency for Toxic Substances and Diseases Registry (United States)
CAS	Chemical Abstracts Service (United States)
CIS	International Occupational Safety and Health Information Centre (ILO)
CSA	Canadian Standards Association
EU	European Union
EU-OSHA	European Agency for Safety and Health at Work
FAO	Food and Agriculture Organization of the United Nations
GHS	Globally Harmonized System of Classification and Labelling of Chemicals
HSE	Health and Safety Executive (United Kingdom)
IAEA	International Atomic Energy Agency
IEA	International Ergonomics Association
IEC	International Electrotechnical Commission
<i>ILO-OSH 2001</i>	<i>ILO Guidelines on occupational safety and health management systems</i>
IPCS	International Programme on Chemical Safety
ISO	International Organization for Standardization
MSD	musculoskeletal disorder
NIOSH	National Institute for Occupational Safety and Health (United States)
OECD	Organisation for Economic Co-operation and Development

OEL	occupational exposure limit
OSH	occupational safety and health or occupational health and safety
OSHA	Occupational Safety and Health Administration (United States)
RCE	Report of the Committee of Experts
SMEs	small and medium-sized enterprises
TLV	threshold limit value
UNEP	United Nations Environment Programme
WHO	World Health Organization

# Chapter I

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## Introduction

### 1. Background and scope of survey

1. In accordance with the provisions of article 19, paragraph 5(e), of the Constitution of the International Labour Organization, the Governing Body of the International Labour Office decided at its 297th Session (November 2006) to request the governments of member States which had not ratified the Occupational Safety and Health Convention, 1981 (No. 155) (the Convention), and the Protocol of 2002 to the Occupational Safety and Health Convention (the Protocol) to report on national law and practice in regard to the matters dealt with in these instruments.<sup>1</sup> By the same decision, and in accordance with article 19, paragraph 6(d), of the Constitution, the governments of all member States were also invited to submit a report on national law and practice in regard to the matters dealt with in the Occupational Safety and Health Recommendation, 1981 (No. 164) (the Recommendation), which supplements Convention No. 155. These reports, in addition to those submitted in accordance with articles 22 and 35 of the Constitution by States which have ratified the Convention and the Protocol, have enabled the Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts) to prepare this General Survey on the effect given in law and practice to the instruments under consideration.

### 2. The place of occupational safety and health

2. The ILO was created in 1919 to promote social justice as a contribution to universal and lasting peace. The preamble of the ILO Constitution specifically provides that “the protection of the worker against sickness, disease and injury arising out of employment” is a fundamental element of social justice. This right to decent, safe and healthy working conditions and environment has been reaffirmed in the 1944 Declaration of Philadelphia and the ILO Declaration on Social Justice for a Fair Globalization.<sup>2</sup> A significant body of international instruments has been developed by the ILO in the area of occupational safety and health (OSH) over the past 90 years and close to 80 per cent of all ILO standards and instruments are either wholly or partly concerned with issues related to OSH. A large number of ILO activities such as child labour, the informal economy, gender mainstreaming, labour inspection, specific sectors of economic activity, HIV/AIDS and migration, include an OSH or OSH-related component. This underlines the continued importance for the tripartite constituents of this very complex area.

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<sup>1</sup> GB.297/12(Rev.), para. 87.

<sup>2</sup> Adopted by the ILC at its 97th Session, Geneva, 10 June 2008.

3. The magnitude of the human and economic burden of work-related accidents and diseases, and thus the importance of OSH, is better understood when looking at global estimates. According to recent ILO global figures<sup>3</sup> for 2003, there were about 358,000 fatal and 337 million non-fatal occupational accidents in the world, and 1.95 million died from work-related diseases. The number of deaths caused by hazardous chemicals alone was estimated at 651,000. Although the cost of these injuries and deaths is incalculable in terms of human suffering, their economic costs are colossal at the enterprise, national and global levels.<sup>4</sup> When taking into account compensation, lost working time, interruption of production, training and retraining, medical expenses, social assistance, etc., these losses are estimated annually at 5 per cent of the global gross national product (GNP). The annual economic cost of major industrial accidents is estimated at US\$5 billion.<sup>5</sup> It must be recognized that the best estimates may well underestimate the true economic and social costs because of the under-reporting of occupational accidents and the failure to recognize the work-related origins of certain diseases.

4. OSH is generally defined as the science of anticipation, recognition, evaluation and control of hazards arising in or from the workplace that could impair the health and well-being of workers, taking into account the possible impact on the surrounding communities and the general environment.<sup>6</sup> In 1950, the ILO–WHO Joint Committee on Occupational Health considered that occupational health should “aim at the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations”.<sup>7</sup> The realization of this aim requires a risk assessment<sup>8</sup> and an OSH management system<sup>9</sup> which is absolutely fundamental to a strategy of prevention. Like other areas of human activity, a balance has to be struck. The complexity of that balance in OSH stems from the constantly changing nature, the rapid pace of scientific and technological progress and efforts to minimize the harm caused to those who are at the frontline of these developments. OSH is based on the principles that were developed to manage the risks generated by a galloping industrialization and its demand for highly and inherently dangerous energy sources<sup>10</sup> and transport systems, as well as for increasingly complex technologies.

5. The pace of global socio-economic development over the past 50 years, together with scientific and technical progress has brought about an unprecedented volume of

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<sup>3</sup> See details in Chapter III, section 6, subsection C.

<sup>4</sup> See GB.300/LILS/10: *Project on economic dynamics of international labour standards*.

<sup>5</sup> B.O. Alli: *Fundamental principles of occupational health and safety*, second edition, International Labour Office, Geneva, 2008, pp. 3–6.

<sup>6</sup> Definition of OSH by the International Occupational Hygiene Association (IOHA): [www.ioha.net](http://www.ioha.net). The membership of the IOHA is made up of professional associations of OSH practitioners in 25 countries. The IOHA has consultative status with both the ILO and WHO.

<sup>7</sup> According to the comprehensive definition adopted by the Joint ILO–WHO Committee on Occupational Health at its First Session (1950) and revised at its 12th Session (1995); see [www.ilo.org/safework](http://www.ilo.org/safework).

<sup>8</sup> Defined in the *ILO Guidelines on occupational safety and health management systems (ILO–OSH 2001)*, Geneva, 2001, p. 23, as “The process of evaluating the risks to safety and health arising from hazards at work”.

<sup>9</sup> The positive impact of introducing OSH management systems at the *organizational* level, both on the reduction of hazards and risks and on productivity, is now recognized by governments, employers and workers. The notion “OSH management system” is defined in *ILO–OSH 2001* as “A set of interrelated or interacting elements to establish OSH policy and objectives, and to achieve those objectives”, pp. ix and 19.

<sup>10</sup> The origin of current safety and risk-management concepts can be traced to the need to master the extremely high hazards inherent to the use of nuclear energy. Background information can be found at the web sites of the International Atomic Energy Agency (IAEA), at [www.iaea.org](http://www.iaea.org), and the Nuclear Energy Agency (NEA) of the Organisation for Economic Co-operation and Development (OECD), at [www.nea.fr](http://www.nea.fr).

research and knowledge concerning risk management in general and the control of public and workplace hazards and risks in particular. Such knowledge has been translated into a massive compendium of international, regional and national regulatory frameworks, as well as technical standards, guidelines, training manuals and practical information covering all the different aspects of OSH for all branches of economic activity. Today, electronic media have made all this information accessible. Progress in improving the social dialogue mechanisms necessary for addressing work-related issues including OSH is significant at both national and enterprise levels. Legal and technical instruments, tools and other measures to prevent occupational accidents and diseases are in place in all countries, albeit at different levels of comprehensiveness, sophistication, implementation and enforcement capacity.

6. Yet, despite this formidable expenditure of effort and resources, a plateau seems to have been reached when it comes to achieving decent, safe and healthy working conditions in practice. The latest ILO estimates indicate that the global number of work related fatal and non-fatal accidents and diseases does not seem to have changed significantly in the past ten years. A closer look at the statistics also shows that, although industrialized countries have seen steady decreases in numbers of occupational accidents and diseases, this is not the case in countries currently experiencing rapid industrialization or those without adequate technical and economic capacities to maintain effective national OSH systems, particularly regulatory and enforcement mechanisms.

7. This trend is caused by factors such as the globalization of the world's economies, changing labour force profiles, demography or migration flows, and the availability of more information. The ongoing globalization of the world economies has undoubtedly been a major factor driving change in technologies and workplaces and even in the structure of the workplace with both positive and negative impact on levels of compliance with accepted good practice. The traditional hazard and risk prevention and control tools are still effective when applied correctly but need to be complemented by prevention strategies designed to anticipate, identify, evaluate and control hazards arising from a constantly evolving world of work. While the integration of OSH requirements in the policies of large enterprises, particularly multinationals, is now an established trend, major efforts are still needed to assist SMEs, as well as the informal economy, in implementing at least basic preventative and protective measures.

8. In this process, the sharing and flow of knowledge and information are essential, as eliminating or minimizing risks depends on proper and timely access to adequate information. For this to be possible, many different disciplines and stakeholders have to be enlisted to address the numerous hazards and organizational issues arising in the world of work and to ensure that the components of national systems function in a coherent and coordinated manner. The implementation of these basic OSH principles at both the national and enterprise levels thus requires complex and resource-intensive administrative and technical machinery. The development of these principles and their transposition into national and international regulatory and guidance tools has been a gradual process that has evolved in parallel to socio-economic and technological changes since the advent of the industrial revolution. The international standards and guidance developed by the ILO in this area over the past 90 years reflect a gradual political awareness of the scope and breadth of regulation required and the need to address existing and emerging workplace hazards and risks by continuously building and strengthening a preventative safety and health culture.



9. Current regulatory systems in the field of OSH have their roots in the industrial revolution of the 1800s,<sup>11</sup> when actions by physicians, in particular in Europe, initially targeted the plight of children through legislation on the minimum age of employment and working hours. This brought on the advent of labour inspection to enforce the law, and the use of certifying surgeons to ascertain the age of workers. Tragic events such as factory fires also triggered legislation requiring improved factory safety standards.<sup>12</sup> By the end of the nineteenth century, the concept of responsibility without fault of the employer gave rise to compensation and insurance schemes for occupational injuries and then diseases including the first traces of the principle of prevention. The employer's responsibility for the safety and health of workers is a basic principle in labour law, based on the logic of the employment contract.

10. After the Second World War, ergonomics<sup>13</sup> – the principle that the working environment should be adapted to humans and not the other way around – emerged as a major principle of OSH. Although the post-war era also saw an increasing awareness of the toll taken by occupational cancer and respiratory diseases and the need for occupational health services to complement the traditional industrial safety approach, the “confluence” between the two disciplines was a slow process.<sup>14</sup>

11. In 1972, the Robens Report<sup>15</sup> triggered a push for broadening the scope of international OSH standards. This approach was initially promoted as a set of guidelines through the International Programme on the Improvement of Working Conditions and Environment (PIACT)<sup>16</sup> launched by the ILO in 1976. A first effort to adopt comprehensive standards,<sup>17</sup> resulting in the adoption in 1977 of the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), and Recommendation (No. 156), was only a partial success, as the scope of these two instruments is limited to “air pollution, noise and vibration”.

12. The Robens Report also introduced a more fundamental concept, namely the need to apply a policy-based approach to OSH. An ILO resolution adopted in 1975 called for the development of OSH policies at the national and enterprise levels that would define

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<sup>11</sup> Although the history of occupational health started well before the nineteenth century, a number of illustrious precursors who contributed to the practice of occupational health as we know it should not be forgotten, such as Sir Percival Pott in the United Kingdom, whose research led to the first legislation on occupational cancer, Ramazzini in Italy, Agricola, Paracelsus and all those physicians whose first question to their patient was “What is your occupation? What work do you do?”.

<sup>12</sup> One example is the Triangle Shirtwaist fire in New York City on 25 March 1911, that was one of the worst disasters in American labour history since the beginning of the Industrial Revolution. It caused the death – in 18 minutes – of 146 garment workers trapped on the ninth floor behind doors that most probably were deliberately locked as the owners claimed the workers stole materials. See, for example, [www.en.wikipedia.org/wiki/Triangle\\_Shirtwaist\\_Factory\\_fire](http://www.en.wikipedia.org/wiki/Triangle_Shirtwaist_Factory_fire).

<sup>13</sup> Selye: *The physiology and pathology of exposure to stress*, 1950.

<sup>14</sup> A reference to occupational health services is made only briefly in the Recommendation, and it was not until 1985 that this gap was bridged through the adoption of the Occupational Health Services Convention, 1985 (No. 161).

<sup>15</sup> A. Robens: Great Britain Committee on Safety and Health at Work: *Safety and health at work*, report of the Committee, 1970–72 (London, 1972). One of the most significant recommendations of this report was that industry-specific safety and health legislation should progressively be repealed and replaced by a framework statute that was to cover all industries and all workers.

<sup>16</sup> ILO: *Improving working conditions and environment: An international programme (PIACT)* (Geneva, ILO, 1984).

<sup>17</sup> Following up on the ILO resolution concerning the working environment, ILC, 59th Session, Geneva, 1974, calling, amongst others, for the adoption of a global approach to the working environment.

the terms of involvement of the employer and the participation of workers.<sup>18</sup> The concept of a comprehensive policy-based approach was finally articulated as the central element of the 1981 OSH Convention and Recommendation. The PIACT programme also constructed a comprehensive model for an OSH policy by advocating that it should be coupled with a “participatory approach”, thus preparing the ground for the introduction in subsequent standards of the concept of a “preventative safety and health culture” as a key to effective preventive action at the workplace.

### 3. The 1981 instruments

#### A. Policy-based approach focused on prevention

13. The Convention and Recommendation are both innovative in that they clearly adopt a comprehensive approach based on a cyclical process of development, implementation and review of a policy, rather than a linear one laying down precise legal obligations. It ensures that the national OSH system is continuously improved and capable of addressing issues arising from a constantly changing world of work. They also define the goal of such continuous improvement, namely prevention. ***The shift of emphasis from the mere prescription of protection measures to preventative measures has been an important step in the development of standard setting in OSH.*** As total prevention is an ideal goal, it implies in real terms a constant effort to improve worker protection. Accordingly, instruments adopted since 1981 place due weight on the priority to be given to preventative measures, while protective measures are considered as a last resort, to be used when exposure to risks cannot be prevented, minimized or eliminated. The requirement to consult the representative organizations of employers and workers in the development, implementation and review of the national OSH policy is also a major innovation that reflects the fact that OSH is fundamentally a matter to be dealt with primarily through close cooperation between the social partners.

14. This shift towards a policy approach focused on prevention is relevant not only at the national level, but at the enterprise level as well. That approach has been reflected in ILO Conventions since the adoption of Convention No. 148 with an emphasis placed on the duties and responsibilities of the employer and the rights and duties of workers, as well as on the importance of social dialogue as an essential factor in achieving safe and healthy working conditions and environment. Part IV of Convention No. 155 is intended to give employers and workers in the enterprise responsibility for managing the OSH system, and this approach is also included in later Conventions.<sup>19</sup>

15. The central organizing theme of Convention No. 155 and Recommendation No. 164 is thus the implementation of a policy focused on prevention rather than a reaction to the consequences of occupational accidents and diseases. Consequently, the two instruments constitute a blueprint for the application of a systems approach to OSH that embodies the principle of preventive action. As reflected in the general discussion based on an integrated approach to OSH at the International Labour Conference in

<sup>18</sup> See ILO resolution concerning future action of the International Labour Organization in the field of working conditions and environment, ILC, 60th Session, Geneva, 1975.

<sup>19</sup> For example, the Chemicals Convention, 1990 (No. 170), the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Safety and Health in Mines Convention, 1995 (No. 176). In order to address an increasing application of management principles to OSH and the demand for standards in this area, the ILO adopted in 2001 *ILO-OSH 2001*.

2003<sup>20</sup> and the resulting Global Strategy,<sup>21</sup> this approach is the dominant feature of current global efforts to curb the incidence of accidents and diseases at work. It also forms the basis for the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Recommendation (No. 197) adopted in 2006.

## B. Scope and objectives

16. The Convention and Recommendation are broad and comprehensive in terms of scope and objectives. They are structured to include regulation of the principles of the national policy (Part II) and the specific actions to be taken at the national level (Part III) and at the level of the undertaking (Part IV). Further technical and practical guidance on the application of the Convention is provided in the Recommendation. Thus, for example, Article 4 on policy and Article 5 on spheres of action are further complemented by the 17 “technical fields of action” in Paragraph 3 of the Recommendation. The two instruments, subsequently supplemented in 2002 by the Protocol, thus cover the entire question of the prevention of occupational hazards through a continuous process of planning, reviewing and improving the working environment.<sup>22</sup>

## C. Flexibility clauses

17. The ILO Constitution (article 19(3)) and many ILO instruments seek to take account of national circumstances and provide for some flexibility in the application of Conventions, with a view to gradually improving the protection of workers by taking into account the specific situation in some sectors and of limited categories of workers. Flexibility is normally based on principles of *tripartism*, *transparency* and *accountability*. When flexibility with respect to a Convention is exercised by a government, it usually involves consultation with workers’ and employers’ organizations concerned. This is seen as a necessary and important approach to ensuring that all countries, irrespective of national circumstances, can engage with the international legal system and that international obligations are respected and implemented, to the extent possible, while also making efforts to improve conditions. This is particularly important in the field of OSH. The Convention follows this approach. It is broad in scope – it applies to all branches of economic activity and all workers in the branches of activity covered. It however contains a number of flexibility clauses.

18. *The Convention* includes the following *flexibility clauses*. It allows for the exclusion, in part or in whole, of *particular branches of economic activity* (such as maritime shipping and fishing) in respect of which special problems of a substantial nature arise (Article 1(2)) and of *limited categories of workers concerned* in respect of which there are particular difficulties (Article 2(2)). It enables countries to: formulate a national policy *in the light of national conditions and practice* (Article 4(1)); review the national policy at *appropriate* intervals either *overall or in respect of particular areas* (Article 7); implement the Convention through laws or regulations or *any other method consistent with national conditions and practice* (Article 8);<sup>23</sup> carry out *progressively*

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<sup>20</sup> ILC, 91st Session, 2003, *ILO standards-related activities in the area of occupational safety and health*, and *Provisional Record* No. 22.

<sup>21</sup> [www.ilo.org/public/english/protection/safework/globstrat\\_e.pdf](http://www.ilo.org/public/english/protection/safework/globstrat_e.pdf).

<sup>22</sup> ILC, 66th Session, Geneva, 1980, *Provisional Record* No. 42, pp. 42/1–42/4.

<sup>23</sup> The rationale behind this innovative feature was made clear during the preparatory work in 1980, when it was recognized that the application of an instrument with such a very wide scope could only be progressive and that the progressive assumption of these functions did not necessarily depend on the enactment of legislation. ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 55, p. 25/7.

certain specified functions (Article 11); ensure that designers, manufacturers, importers, etc., *satisfy themselves that, in so far as is reasonably practicable*, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly (Article 12(1)); undertake certain measures or arrangements *in a manner appropriate to national conditions and practice* (Articles 13, 14 and 15); and undertake certain obligations *so far as is reasonably practicable or where necessary* (Articles 4(2), 6 and 18).

19. *The use of the flexibility clauses in the Convention* requires consultation with: the most representative organizations of employers and workers concerning the national policy (Article 4) and coordination arrangements (Article 15(1)); and with representative organizations of employers and workers *concerned* as regards the exclusion from application of particular branches of economic activity and limited categories of workers (Article 1(2) and Article 2(2)) and in respect of the means of implementation of the national policy (Article 8).

20. *The Protocol* includes the following *flexibility clauses*. Countries are enabled to: implement it through *laws or regulations or any other method consistent with national conditions and practice* (Article 2); take measures concerning confidentiality of data *in accordance with national laws and regulations, conditions and practice* (Article 3(d)); and take certain measures concerning recording and notification *where appropriate, as appropriate or if applicable*.

21. *The use of the flexibility clauses in the Protocol* requires consultation with the most representative organizations of employers and workers concerning the requirements for recording and notification (Article 2).

22. *Transparency* is also a central feature in this context as governments are required to: give reasons to the ILO for exclusions (Articles 1(3) and 2(3) of the Convention); and publish annually national statistics concerning occupational accidents and diseases, etc. (Article 6 of the Protocol).

23. *Accountability* is provided for with the requirement in Article 1(3) and Article 2(3) of the Convention for any determinations made to be reported to the ILO in the first reports of ratifying member States. Governments are also required to provide information on progress made towards wider application.

24. The above flexibility devices demonstrate that the Convention was designed to enable all ILO member States, irrespective of their level of development, to be in a position to ratify and implement it. They enable a member State to ratify the Convention in circumstances where, absent the flexibility clauses, in particular the exclusion clauses in Article 1(2) and Article 2(2), the State would not be in a position to fully comply with all of the provisions of the Convention. This inability to ratify the Convention would result in workers in that country being deprived of the benefits of the OSH protection given by the Convention. At the same time, the exclusions made in application of the flexibility clauses are not intended to be permanent and member States are expected to progress towards a full application of the Convention. Member States are thus expected to expand the coverage of the Convention to embrace excluded categories of workers and not let them remain permanently excluded with less OSH protection than other workers within the country. The flexibility clauses should thus be used as enabling provisions and should not be used as a means of derogation from effective OSH protection for workers.

25. Another important feature of the 1981 instrument is the place given to the requirements that workers and their representatives be involved in the management and

supervision of OSH issues at the workplace in various ways. It also contains a related requirement that workers and their representatives should be offered protection against victimization and undue consequences when they take action in order to implement OSH measures in accordance with the national policy in Article 4 of the Convention or when they withdraw from work situations which presents an imminent and serious danger to their life and health.<sup>24</sup>

26. As may be seen from the preparatory work, there was substantial debate on the subject of how to regulate the right of workers and their representatives to participate in the management of OSH issues at the workplace. The final result reflects a carefully crafted balance between binding and non-binding provisions, actions that can and should be taken under “normal” circumstances and in cases presenting imminent and serious danger, and the respective rights and duties of employers, workers, and their representatives in this respect. The basic principle that workers and their representatives should be protected from victimization pursuant to Article 5(e) is one of the main elements to be included in the national policy, and is indicative of the central importance attributed to this principle. Similarly, the protection of workers who remove themselves from situations presenting imminent and serious danger, laid down in Article 13, was included in Part III of the Convention (“Action at the national level”) with the specific intention of ensuring that this right would be protected at the national level. The corollary of this right at the enterprise level is regulated in Article 19(f).<sup>25</sup> The proposal to regulate these issues in two articles, was intended to “enable a worker to cease work in certain circumstances and on certain conditions, while preserving the employer’s basic responsibility both under Article 16 and as regards the efficient operation of the undertaking under his control”.<sup>26</sup>

#### 4. The instruments in context

27. OSH is a cross-cutting subject matter and OSH concerns are addressed in a large number of ILO standards mainly focused on other subject matters. Other standards, such as, in particular, the Labour Inspection Convention, 1947 (No. 81) as well as the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) are complementary to the standards specifically dealing with OSH. Furthermore, while Convention No. 155 is central to ILO action in the area of OSH, many of its provisions have been further complemented and expanded by an array of other ILO instruments covering more specific aspects of OSH, in particular the Occupational Health Services Convention, 1985 (No. 161), and the Protocol of 2002. Other instruments, such as the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Safety and Health in Mines Convention, 1995 (No. 176), relate to Article 11(a) of Convention No. 155, while the Asbestos Convention, 1986 (No. 162), and the Chemicals Convention, 1990 (No. 170), relate to its Article 11(b). Other Conventions adopted prior to 1981 were

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<sup>24</sup> As indicated in this survey, the notion that workers should have the right to refuse work when exposed to imminent and serious danger has its roots, inter alia, in Canadian legislation, in particular in that of the province of Saskatchewan. Stemming from efforts to curb accident rates in the late 1880s, especially in the mining industry, provincial legislation was introduced which expressly provided that workers had the right to refuse “unusually dangerous work”. This “right to refuse” gradually developed into a system of workers’ rights which also includes the “right to know” and the “right to participate”. See, inter alia, *Encyclopaedia of Saskatchewan*, at [http://esask.uregina.ca/entry/occupational\\_health\\_and\\_safety\\_legislation.html](http://esask.uregina.ca/entry/occupational_health_and_safety_legislation.html).

<sup>25</sup> See ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, para. 126, pp. 28–29.

<sup>26</sup> See ILO: *Safety and health and the working environment*, Report VI(2), ILC, 67th Session, Geneva, 1981, p. 39.

reflected in some of the key provisions in the two instruments, such as those addressing labour inspection, radiation safety, hygiene, physical hazards in the working environment or occupational cancer.

28. The Recommendation contains, in an annex, a list of instruments adopted by the ILC since 1919 concerning OSH and the working environment. Paragraph 19(2) of the Recommendation provides that this list may be modified by the ILC in connection with the future adoption or revision of any Convention or Recommendation in the field of OSH. The Committee of Experts notes, however, that, when the ILC adopted Recommendation No. 197, it included in an annex a list of instruments relevant to the Promotional Framework for OSH. It also notes that many of the instruments contained in the annex to Recommendation No. 164 are either outdated or in need of revision.<sup>27</sup>

## 5. Status of ratification

29. The Convention came into force on 11 August 1983. To date (12 December 2008), it has received 52 ratifications. The number of ratifications has increased at an average rate of two new ratifications per year, but this pace seems to be accelerating, as almost half of the ratifications registered were recorded over the past ten years. The two most recent instruments of ratification were registered on 20 February 2008 (*Republic of Korea*) and 28 May 2008 (*Fiji*). The Protocol came into force on 9 February 2005. To date (12 December 2008), it has received five ratifications. The most recent instrument of ratification was registered on 8 April 2008 (*Luxembourg*). The list of States which are currently bound by the terms of the Convention and its Protocol is given in Appendix I.

## 6. Information available

30. The present survey is based on information from 123 countries including information in 262 reports communicated in conformity with article 19 of the ILO Constitution. Full indications on the reports due and received are contained in Appendix II. According to its usual practice, the Committee of Experts has also made use of the information contained in reports submitted under articles 22 and 35 of the Constitution by those member States which have ratified the instruments under consideration.<sup>28</sup> Available information on national law and practice in the preparatory work to the Protocol has also been taken into account, as appropriate.<sup>29</sup>

<sup>27</sup> This issue is further considered in Chapter II, section 9, below.

<sup>28</sup> First reports on the application of the Convention are not yet due as regards *China*, *Fiji*, *Republic of Korea* and *New Zealand* owing to recent ratifications. A first report is due, but has not yet been received, from *Sao Tome and Principe*. A first report on the application of the Protocol has been provided by *Finland*, but *Albania*, *El Salvador*, *Luxembourg* and *Sweden* will be called upon to report on the application of the Protocol in the context of the regular reporting cycle of the Convention.

<sup>29</sup> ILO: *Recording and notification of occupational accidents and diseases and ILO list of occupational diseases*, Reports V(1), V(2A), and V(2B) and *Provisional Record* Nos 24, 29 and 30, ILC, 90th Session, Geneva, June 2002.

31. Lastly, the Committee of Experts has duly taken into account the observations submitted by several employers' and workers' organizations.<sup>30</sup> The Committee recalls that regular and thorough reporting is an obligation inherent to membership of the Organization and is also crucial to the functioning of the Organization's supervisory bodies. The Committee notes that no more than 28 national workers' and employers' organizations from only 14 member States took the opportunity offered by article 23 of the ILO Constitution to express their views on a subject which is of vital importance for the safety and well-being of workers. *The Committee cannot overemphasize the particular significance attributed to the comments of employers' and workers' organizations in respect of the difficulties and dilemmas that the application of ILO standards may entail in practice, and therefore strongly encourages these organizations to adopt a more responsive and participatory stance towards the Committee's work in sharing their valuable observations and insight with it.*

## 7. Outline of the survey

32. This General Survey is divided into five chapters. Chapter I provides some background to and a brief outline of the instruments under consideration. The Committee of Experts examines national law and practice in respect of the Convention and Recommendation in Chapter II and of the Protocol in Chapter III. These overviews largely follow the structure of the instruments. Chapter IV summarizes reported information on the impact of the instruments, the prospects for the ratification of the Convention and the Protocol and obstacles thereto. Chapter V reviews the general trends reflected in available information and draws conclusions regarding the continued and future relevance of the instruments.

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<sup>30</sup> Barbados: Congress of Trade Unions and Staff Associations (CTUSAB); **Finland**: Confederation of Finnish Industries (EK), Central Organization of Finnish Trade Unions (SAK), Finnish Confederation of Salaried Employees (STTK), Confederation of Unions for Academic Professionals in Finland (AKAVA), Commission for Local Authority Employers, and State Employer's Office (VTML); India: Centre of Indian Trade Unions (CITU), Bharatiya Mazdoor Sangh (BMS); Japan: Japanese Trade Union Confederation (JTUC-RENGO); Jordan: Jordan Chamber of Industry; Mauritius: Mauritius Employers' Federation; *Netherlands*: Confederation of Netherlands Industry and Employers (VNO-CNW); National Federation of Christian Trade Unions in the Netherlands (CNV); *Netherlands*: Trade Union Confederation (FNV); *New Zealand*: Business New Zealand, New Zealand Council of Trade Unions (NZCTU); Peru: Chamber of Commerce of Lima (CCL), National Industry Society (SIN); Poland: Confederation of Polish Employers; *Portugal*: Confederation of Portuguese Industry (CIP), Confederation of Trade and Services of Portugal (CCSP), General Union of Workers (UGT); *Serbia*: Confederation of Autonomous Trade Unions of Serbia; Sri Lanka: Employers' Federation of Ceylon, Ceylon Federation of Trade Unions, Lanka Jathika Estate Workers' Union (LJEWU); Switzerland: Union of Swiss Employers.

## Chapter II

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### Requirements of ILO standards and review of national law and practice: Convention No. 155 and Recommendation No. 164

#### 1. Scope, coverage and exclusions

33. An important and innovative feature of the Convention and Recommendation is that they are aimed at ensuring that the scope of national policy, law and practice in the area of occupational safety and health (OSH) is as broad and comprehensive as possible. Articles 1(1) and 2(1) of the Convention thus provide that it applies to all branches of economic activity and to all workers in these branches.

#### A. Coverage of branches of economic activity

34. Article 1(2) of the Convention permits, after consultation, at the earliest possible stage, with the representative organizations of employers and workers concerned, the exclusion, in part or in whole, of particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.

35. Among the 123 countries covered in this General Survey, 91 report generally that their national OSH legislation covers all branches of economic activity and all workers. Of these 91 countries, 46 report that this is the case without any exceptions.<sup>1</sup> In another group of 14 countries,<sup>2</sup> certain branches or categories of workers are covered by special laws and regulations. In 30 countries,<sup>3</sup> the otherwise generally applicable laws and regulations on OSH are subject to certain exceptions as set out below. Among the

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<sup>1</sup> *Algeria, Armenia, Australia, Austria, Azerbaijan, Belarus, Belize, Bosnia and Herzegovina, Central African Republic, Colombia, Costa Rica, Cuba, Czech Republic, Dominican Republic, El Salvador, Estonia, Ghana, Guatemala, Honduras, Hungary, Indonesia, Ireland, Israel, Italy, Kazakhstan, Latvia, Luxembourg, Malaysia, Mali, Mauritius, Mexico, Republic of Moldova, Mongolia, Morocco, Netherlands, Nigeria, Paraguay, Poland, Russian Federation, Saudi Arabia, Senegal, Slovakia, Solomon Islands, Syrian Arab Republic, United Republic of Tanzania and Uruguay.*

<sup>2</sup> *Albania, Bulgaria, Canada, Cape Verde, France, Iceland, Lithuania, Montenegro, Norway, Portugal, Serbia, South Africa, United Kingdom and the Bolivarian Republic of Venezuela.*

<sup>3</sup> *Belgium, Brazil, China, Congo, Denmark, Egypt, Finland, Germany, Greece, Jordan, Lebanon, Madagascar, New Zealand, Nicaragua, Panama, Peru, Philippines, Romania, Seychelles, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Ukraine, United States, Viet Nam and Zimbabwe.*



remaining 33 countries,<sup>4</sup> where coverage is partial<sup>5</sup> or information is lacking, 11 are in the process of extending the scope of their national legislation.<sup>6</sup>

36. In some countries the OSH conditions in certain branches of economic activity such as mining,<sup>7</sup> shipping and fishing,<sup>8</sup> aviation,<sup>9</sup> and the petroleum extraction industries<sup>10</sup> are not regulated in general OSH legislation but in specific legislation covering these branches. In other countries some of these branches of economic activity are not covered at all.<sup>11</sup> Although agricultural workers are covered in a number of countries,<sup>12</sup> they are excluded from protection in others.<sup>13</sup> The Centre of Indian Trade Unions (CITU) indicates that workers in the Indian agricultural sector do not enjoy protection from chemicals and pesticides or other occupational hazards.

37. Article 3(a) provides that the term “branches of economic activity” covers all branches in which workers are employed, including the public service. In 17 countries covered by this General Survey public service is not covered.<sup>14</sup> In other countries this branch of economic activity is covered but certain specific categories of public employees are not covered such as the military, the police, security personnel and firefighters.<sup>15</sup>

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<sup>4</sup> *Antigua and Barbuda*, Argentina, Bahrain, Barbados, Burkina Faso, Cameroon, *China (Macau SAR)*, Croatia, Cyprus, Ecuador, Eritrea, *Ethiopia*, Grenada, Haiti, India, Islamic Republic of Iran, Iraq, Japan, Kiribati, *Lesotho*, Malawi, Mozambique, Myanmar, Namibia, Pakistan, Qatar, Singapore, Sri Lanka, Suriname, Thailand, *Turkey*, Yemen and Zambia.

<sup>5</sup> For example, in Barbados, where national OSH legislation only covers employees of establishments designated as factories.

<sup>6</sup> Including Barbados, *China (Macau SAR)*, Cyprus, Eritrea, *Ethiopia*, Iraq, Kiribati, Peru, Singapore, Suriname and *Turkey*. In respect of Barbados, the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) indicates that a new OSH Act has been drafted and trusts that it will be adopted as soon as possible to protect all workers.

<sup>7</sup> As in *Albania*, *Lesotho*, *Slovenia* (partially) and *South Africa*.

<sup>8</sup> As in Cyprus, Denmark, France, Iceland, Norway, Philippines, *Seychelles*, Switzerland and Tunisia.

<sup>9</sup> As in Denmark, France, Philippines, Switzerland and *Turkey*.

<sup>10</sup> As in *Albania*, Denmark, Norway and *South Africa*. In Azerbaijan, and the United Kingdom, however, national OSH law specifically includes work done on offshore installations.

<sup>11</sup> For example in the *Seychelles*, seafarers appear to be excluded from OSH protection altogether.

<sup>12</sup> In some countries certain categories of agricultural workers are excluded. These are discussed below.

<sup>13</sup> For example, Bahrain, India, Jordan, Myanmar, Nicaragua, Pakistan, Qatar and Suriname. It should also be noted that the Safety and Health in Agriculture Convention, 2001 (No. 184), has been ratified by ten countries, eight of which are parties to Convention No. 155. See [www.ilo.org/ilolex/english/newratframeE.htm](http://www.ilo.org/ilolex/english/newratframeE.htm). The Philippines report that it intends to ratify this Convention. In Switzerland agriculture is excluded from the health protection law, but not from the accident prevention law. As regards *Portugal*, the Committee of Experts has requested information on the outcome of a review of the OSH legislation in the agricultural sector undertaken pursuant to a decision in 2004. *Portugal* has also reported that national legislation on OSH covered self-employed workers, defined to include workers in family farms.

<sup>14</sup> Including Bahrain, Brazil, Burkina Faso, Cameroon, Congo, Egypt, Eritrea, *Ethiopia*, Jordan, *Lesotho*, Madagascar (partially), Malawi, Mozambique, Peru, Qatar, Tunisia and *Turkey*. As regards the four parties to Convention No. 155, Brazil, *Ethiopia*, *Lesotho* and *Turkey* recent or ongoing legislative changes are providing for extensions of the scope of national legislation to include public servants. In addition, the United States reported that the generally applicable OSH Act did not cover state and local government employees in States without state plans.

<sup>15</sup> For example, in Argentina, Bulgaria, Canada, Cape Verde, Croatia, Cyprus, Denmark, France, New Zealand, Portugal, *Slovenia*, Spain, Sri Lanka, Switzerland, Ukraine, Bolivarian Republic of Venezuela and Zimbabwe.

## B. Coverage of particular categories of workers

38. Article 2(2) of the Convention permits, after consultation at the earliest possible stage with the representative organizations of employers and workers concerned, the exclusion of particular limited categories of workers in respect of which there are particular difficulties.

39. Many countries in this survey, mostly developing countries, reported partial coverage excluding certain categories of workers within branches of economic activity.<sup>16</sup> In India factories employing fewer than ten employees and not using mechanical power are excluded from coverage. According to the observations of the Indian trade union Bharatiya Mazdoor Sangh (BMS), OSH protection only exists in the mining sector, factories, ports and construction, thus excluding more than 90 per cent of the labour force. Some of these workers may be engaged in manufacturing or waste handling, using hazardous chemicals or carrying on operations hazardous to workers' safety and health. The CITU also refers to traditional industries, such as the *beedi*, cashew, coir and handloom industries, where no protection is available. The BMS recommends that national OSH legislation should be generally applicable at all workplaces irrespective of the number of workers employed, and in particular in plantations, construction sites, the agricultural sector and the informal economy. In the United States, farms with less than ten employees are not covered by the federal OSH Act.

40. In many countries, OSH legislation does not apply to domestic work.<sup>17</sup> The reasons that have been invoked for excluding this category of workers are the practical difficulties of enforcing legislation in domestic settings.<sup>18</sup> As regards homeworkers, they are also excluded in several countries.<sup>19</sup> Like for domestic workers, the reasons often invoked for the exclusion of homeworkers are the practical difficulties of enforcing legislation in domestic settings. Nevertheless, Austria, *Czech Republic* and *Sweden* appear to have overcome these difficulties and have adopted legislation regulating the working conditions of both domestic employees and homeworkers including some provision for OSH protection.

41. As regards self-employed persons, the Convention is silent, but it follows from Paragraph 1(2) of the Recommendation that it is up to each country to determine what protective measures may be necessary and practicable to apply to this category of persons.<sup>20</sup> Most of the countries that report coverage of all branches of economic activity and all workers do not refer expressly to this category. A small number of countries indicate that they exclude self-employed persons from national OSH

<sup>16</sup> *Antigua and Barbuda*, Barbados, Argentina, Bahrain, Burkina Faso, Cameroon, *China (Macau SAR)*, Croatia, Eritrea, Grenada, India, Japan, *Lesotho*, Malawi, Mozambique, Myanmar, Pakistan, Qatar, Singapore, Sri Lanka, Suriname, Thailand and *Zimbabwe*.

<sup>17</sup> Domestic workers are excluded in Argentina, Austria, Bahrain, Belgium: (1) (except in matters relating to violence, moral or sexual harassment at work), *Croatia*, *Denmark*, Egypt, Germany, Greece, Jordan, Lebanon, Qatar, Romania, *Serbia*, *Seychelles*, *Spain*, Switzerland, *The former Yugoslav Republic of Macedonia*, Thailand, Trinidad and Tobago, *Turkey* and the United Kingdom.

<sup>18</sup> Article 3 of European Directive 89/391/EEC on the introduction of measures to encourage improvements in safety and health workers at work excludes domestic workers from the definition of "worker".

<sup>19</sup> Such as in Belgium, *Denmark*, *Finland*, Japan, Jordan, *New Zealand*, Philippines, Qatar, *Spain*, Sri Lanka, Switzerland, Trinidad and Tobago and *Turkey*. The Jordan Chamber of Industry indicated that members of the employer's family are excluded from OSH legislation.

<sup>20</sup> For more background information, see, inter alia, ILO: *Safety and health and the working environment*, Report VII(a)(2), ILC, 66th Session, Geneva, 1980, pp. 18–19.

protection,<sup>21</sup> while a few others include them.<sup>22</sup> The Japanese Trade Union Confederation (JTUC-RENGO) refers to a practice among some employers to evade their OSH obligations, by intentionally hiring self-employed contractors (*hitori-oyaka*) who are not subject to worker protection although these contractors should be employed as ordinary workers with entitlement to worker protection. *Slovenia* has adopted an innovative approach by providing that self-employed persons are covered by definitions both of a worker and of an employer on the ground that, in practice, they act in both of these capacities. In *Ukraine*, self-employed persons can be covered by voluntary accident insurance. In *Portugal* the General Union of Workers (UGT) indicates that the Government envisages to apply OSH legislation to self-employed persons but that national health services do not ensure protection and monitoring of these workers.

42. Some countries extend coverage to certain specific categories of workers, such as trainees and apprentices,<sup>23</sup> migrant workers,<sup>24</sup> temporary workers<sup>25</sup> and prison workers.<sup>26</sup> The United Kingdom reports that persons other than persons at work are protected against risks to health or safety “arising out of or in connection with the activities of persons at work”. Bulgarian national OSH legislation also applies to Bulgarian undertakings abroad as far as it does not conflict with the laws of the relevant state or with international agreements to which Bulgaria is a counterpart. *Montenegro*’s, as well as *Switzerland*’s, national OSH legislation also extends to nationals working abroad.

### C. The informal economy

43. The problematic situation in the informal economy, which typically is not covered by national OSH legislation and in which workers often have to face the most unsafe and unhealthy conditions of work, was raised by some countries in their reports.<sup>27</sup> The informal economy is usually considered to be the part of national economies where the decent work deficits are most pronounced.<sup>28</sup> In addition, it sometimes accounts for the bulk of the workforce. The CITU states that the great majority – 94 per cent – of the workforce in *India* is employed in the informal economy and thus not covered by any OSH legislation. Other countries, such as *Brazil*, report on efforts to extend the application of their OSH legislation to the informal economy.<sup>29</sup> The difficulties related

<sup>21</sup> Argentina, China, **Finland**, Greece, Turkey, United States and Viet Nam.

<sup>22</sup> Czech Republic, Colombia, Germany, Hungary, Italy, Singapore and the United Kingdom.

<sup>23</sup> Austria, Belgium, Estonia and Switzerland.

<sup>24</sup> Czech Republic and Spain.

<sup>25</sup> Belgium, Cuba, Czech Republic and New Zealand.

<sup>26</sup> Azerbaijan, Estonia, **Finland** and Sweden.

<sup>27</sup> For example Colombia, Ecuador, India, Nicaragua and Peru. In this regard, the National Industry Society (SIN) of Peru indicated that a large number of persons active in the informal economy are not guaranteed minimal OSH conditions in their work-related activities. As stated in paragraph 3 of the ILO resolution concerning decent work and the informal economy, ILC, 90th Session, 2002, Geneva: “Although there is no universally accurate or accepted description or definition, there is a broad understanding that the term “informal economy” accommodates considerable diversity in terms of workers, enterprises and entrepreneurs with identifiable characteristics. They experience specific disadvantages and problems that vary in intensity across national, rural, and urban contexts ... Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that – although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs ...”.

<sup>28</sup> *ibid.*, para. 9.

<sup>29</sup> See Report of the Committee of Experts, 2007.

to the informal economy is one of the main issues dealt with during the week dedicated to OSH in Argentina each year.<sup>30</sup>

44. The Convention provides that countries availing themselves of the flexibility offered in Articles 1 and 2 are required to list exceptions made in their first report and to continue to provide information on any progress made towards wider application of its provisions. Several countries indicate that they are currently extending the scope of their national OSH legislation.<sup>31</sup> *Cyprus*, for example, is in the process of extending coverage to domestic workers. In Singapore, a new proposed OSH Act to cover all branches of economic activity and all workplaces was drafted in 2007 with ILO assistance, and is being finalized. In *Turkey*, a draft OSH Bill currently under consideration would include all activities and workplaces except work with special characteristics (armed forces, police and civil defence).

#### D. Progressive extension of scope

45. Although the flexibility clauses enable exclusion of branches of economic activity (Article 1(2) and (3)), and exclusion of limited categories of workers (Article 2(2) and (3)), and, although these exclusions are required in each case to be identified in the first report after ratification, this does not mean that such exclusions must remain for all time. In each case, Articles 1(3) and 2(3) contain a mandatory requirement that the member State is required to report subsequently on progress made towards a wider application. These subparagraphs when combined with the provisions in Articles 4 and 8, would permit, and indeed encourage, a review of the excluded categories and in particular whether the exclusions should no longer apply or apply in a more limited manner, having regard to changed circumstances or as part of the implementation of a more coherent national policy. This should be done in consultation with the social partners as provided for in the Articles.

46. The Committee notes that, as a matter of practice, there had been little change to the excluded categories once they had been first identified and there appears to be little, if any, use made of the mandatory requirement for member States to report on progress towards eliminating or reducing the exclusions. ***Bearing in mind the context of the exclusions in the Convention, the overall aim of which is to protect all workers from workplace injury and disease, and that since 1981 there have been considerable technological advances which allow for a better protection of workers, the Committee is of the view that member States and social partners should give more thought to the continued appropriateness of excluding any workers from protection against workplace injuries and diseases.***

## 2. The role of employers and workers

47. As stated in the ILO Declaration on Social Justice for a Fair Globalization, the ILO's tripartite structure and standards system are its unique advantages. All ILO instruments and policies are developed on a tripartite basis and reflect the importance of consultation with and cooperation among the social partners. The three instruments at issue require the active involvement of employers and workers and their organizations, as appropriate, at all relevant levels – from the shop floor up to and including national policy development. Different consultative mechanisms are provided for, depending on

<sup>30</sup> See, inter alia, [www.srt.gov.ar/super/eventos/semana2008/programma.htm](http://www.srt.gov.ar/super/eventos/semana2008/programma.htm).

<sup>31</sup> *Brazil, Canada, China (Macau SAR), Cyprus, Czech Republic, Eritrea, Ethiopia, Kiribati, Malawi, Pakistan, Saudi Arabia, South Africa, Sri Lanka, Suriname, Sweden, Thailand, Turkey and Zimbabwe.*

the context, but the basic message is that the principle of prevention can only be effectively implemented through active collaboration between employers and workers. Laws and regulations are essential in determining the legal framework for the administration of national OSH infrastructures, but the knowledge of how to apply them successfully in the workplace rests to a large extent with employers, workers and the organizations that represent them. That knowledge is also essential in a national policy context. At the national level, consultations are to be held with employers and workers, through their representative organizations, regarding any possible limitation of the scope of the Convention, as well as in the formulation, implementation and periodical review of the national policy. At the level of the enterprise, employers and workers are required to cooperate in OSH matters, either directly or through mechanisms set up for that purpose, based on a system of assigned rights and duties.

48. Whether at the enterprise or at the national level, the principle of prevention rests on the premise that early awareness and action is the most effective approach. This is clearly reflected in the preparatory work and the provisions of the Convention, which provide for consultations “at the earliest possible stage”.<sup>32</sup> Consultation with the social partners is a leitmotiv in the three instruments to give effect to the provisions of the Convention. The Convention does not prescribe a specific form or procedure for the consultations to be held with the representative organizations of employers and workers. However, if recourse is to be had to Article 1(2) or Article 2(2), the Government is required to:

- (1) hold consultations *at the earliest possible stage prior* to the action taken;
- (2) hold consultations with the representative organizations of employers and workers *concerned*;
- (3) *report on exclusions made* to the ILO and to keep it informed subsequently according to Articles 1(3) and 2(3).

49. Article 4(1) provides that the national policy shall be formulated, implemented and periodically reviewed in consultation with the most representative organizations of employers and workers. They are thus to be involved in all stages of the national policy-making process. It should be underscored that the wording in Article 4(1) and Article 8 refers to action to be taken *in consultation with* representative organizations of employers and workers, as opposed to *after consultation with*, as often provided for in other ILO Conventions. As indicated in the preparatory work, this “implied an obligation not merely to consult once but to have a continuing dialogue as necessary. It also implied that this obligation did not affect the authority of the member State and, as the case may be, its legislature, to take the final decision”.<sup>33</sup> This merits particular emphasis in view of the progressive nature not only of the Convention but also of the whole area of OSH, in which a constant adjustment to technological, economic and scientific developments is necessary, as well as continuous active involvement of and regular dialogue with employers and workers.

50. With few exceptions, countries covered in this survey indicate that they have established mechanisms for consultation with employers and workers in regard to the

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<sup>32</sup> See ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 27, p. 25/4, para. 138, p. 25/15, and Article 15 of Convention No. 155.

<sup>33</sup> See also Article 2 of the Protocol. It was recognized, however, that it was appropriate to retain the formulation “after consultations with” in the context of the consultations to be held on the subject matters referred to in Articles 1(2), 2(2) and 15(1). See, ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, p. 11.

development of policy and legislation relevant to OSH, and in many cases specific structures and mechanisms are in place for the active involvement of employers and workers at all relevant levels. Most countries report that these structures are effectively used.<sup>34</sup> This is the case in most of the States parties to the Convention, Member States of the European Union (EU), and the parties to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144),<sup>35</sup> but also in Canada, *Croatia*, *Cuba*, Ghana, Singapore and *Slovenia*. In Austria, *Spain* and the *Bolivarian Republic of Venezuela*, for example, tripartite consultation in the area of OSH is a fundamental principle prescribed in law, and in *Belarus* and the *Republic of Moldova* trade unions are legally entitled to take part in national actions related to OSH. *Sweden* reports that as a matter of regular practice, the social partners are consulted on at least three occasions in the legislative drafting process and that on other overarching issues, regular consultative meetings are held.

51. As will be examined in more detail below,<sup>36</sup> most countries consult with the representative organizations of employers and workers through institutions specifically dedicated to handling OSH issues and with mandates covering the different stages of the national policy process. The Committee of Experts has noted with interest the involvement of employers and workers in the context of such mechanisms in *Brazil*<sup>37</sup> and the *Czech Republic*,<sup>38</sup> for instance. Although the structures may be available, they should function effectively in practice. This requires the vigilance of all the parties involved.<sup>39</sup> The scope and effectiveness of the involvement of the employers' and workers' organizations in the national policy process related to OSH may be more difficult to assess in countries where consultation takes place through other tripartite consultation mechanisms. Such mechanisms may be confined to legislative review or ad hoc consultations between employers' and workers' organizations on OSH issues.<sup>40</sup>

52. Several countries have extended consultation beyond the social partners, considering that an active role must be played by society as a whole.<sup>41</sup> Others provide for very broad and thorough consultations, such as public hearings, that are often part of the legislative process. This is the case, for example, in the United States.<sup>42</sup> The Committee of Experts notes that it has encouraged member States which have ratified

<sup>34</sup> However, tripartite consultations do not seem to be held in *Algeria*, *Central African Republic*, Malawi, Paraguay and Pakistan. The reports from *Bosnia and Herzegovina*, Burkina Faso, Ghana, Grenada, Myanmar, Qatar and *Sao Tome and Principe* are silent on this issue.

<sup>35</sup> The following countries covered in this General Survey have not ratified Convention No. 144: Bahrain, Cameroon, Canada, *Cape Verde*, *Croatia*, *Cuba*, Eritrea, *Ethiopia*, Ghana, Honduras, Israel, Lebanon, **Luxembourg**, Morocco, Myanmar, Panama, Paraguay, Qatar, *Russian Federation*, Saudi Arabia, Singapore, *Slovenia*, Thailand and Tunisia.

<sup>36</sup> See Chapter II, section 6.

<sup>37</sup> RCE, 2008.

<sup>38</sup> RCE, 2001.

<sup>39</sup> India: CITU and the BMS indicate in their observations that the National Safety Council is just a consultative body whose recommendations are not legally binding and are rarely implemented. The Swedish Trade Union Confederation (LO) criticized the national consultative process in *Sweden* (RCE, 2007).

<sup>40</sup> As, for example, in Burkina Faso, *China*, Jordan, Mozambique, Panama and the United Republic of Tanzania.

<sup>41</sup> Colombia highlights the need to continue strengthening consultation bodies and convening society as a whole.

<sup>42</sup> Furthermore, *El Salvador* refers to a national tripartite consultation workshop held on 18 August 2005 to develop a national OSH policy: in addition to government, employers' and workers' representatives, participants included academics and members of public employees' associations and of foundations for socio-economic development.

the Employment Policy Convention, 1964 (No. 122), to include representatives of the informal economy in consultations held to formulate national employment policy in the framework of a coordinated economic and social policy.<sup>43</sup>

### 3. Principles of a national policy for prevention

53. Part II of the Convention focuses on the national policy required and the principles underpinning it. “National policy” is a commonly used term which is given a specific dynamic meaning in the context of the Convention. It connotes a cyclical process with different stages to be implemented at recurring intervals.

#### A. The national policy process

54. Article 4(1) of the Convention provides that each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers,<sup>44</sup> formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The reference to “national conditions and practice” indicates, first of all, that there is no “one-size-fits-all” model and that a national policy has to be developed based on an assessment of particular national needs and conditions.<sup>45</sup>

55. The terms “formulate, implement and periodically review the national policy” indicate that the national policy must be maintained up to date through a process which follows in general terms the classical steps of the Plan-Do-Check-Act (PDCA) systems management model.<sup>46</sup> In other words, the national policy must be formulated (Plan), put into action (Do), and periodically reviewed (Check). The review is a crucial step to ensure that the effectiveness of implementation is assessed and areas for further action towards improvements are identified (Act). The periodicity of the review process ensures that the national policy keeps pace with socio-economic and technological changes. It should be underscored that such a review should be carried out regularly.

56. The final requirement is that the national policy is to be *coherent*. This implies that it should involve all the relevant parties with responsibilities in regard to the various aspects of OSH. It was clarified in the course of the preparatory work that coherence in this context meant that the national policy should “be made up of mutually compatible components making up a consistent whole”.<sup>47</sup> A national policy can be formalized in many different ways, depending on the national situation and practice. It follows from the preparatory discussions that, while the adoption of a national policy in the form of a programmatic statement is often a significant step in the process towards a national policy, particularly if it provides for the mechanisms that will enable the implementation

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<sup>43</sup> Of the 52 countries which have ratified Convention No. 155, 37 have also ratified Convention No. 122.

<sup>44</sup> In contrast, and given their different purpose, the consultations referred to in Articles 1(2), 2(2) and 8 are to be held with the representative organizations of employers and workers *concerned*.

<sup>45</sup> The importance of this process has been further underscored in the context of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and its accompanying Recommendation (No. 197).

<sup>46</sup> This model is a guideline for the modern management of enterprises. For further guidance, see *Guidelines on occupational safety and health management systems (ILO-OSH 2001)*, at [www.ilo.org/public/english/protection/safework/cops/english/download/e000013.pdf](http://www.ilo.org/public/english/protection/safework/cops/english/download/e000013.pdf). This is also the basic approach of Convention No. 187.

<sup>47</sup> See ILO: *Safety and health and the working environment*, Report VII(a)(1), ILC, 66th Session, Geneva, 1980, p. 59.

and periodical review of that policy through consultation with the social partners, the required national policy process must also include implementation in practice.<sup>48</sup>

57. According to Article 4(2) the aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, “by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment”. This wording was intended to reflect the fact that, while the requirement is to prevent hazards, in practice all risks to health cannot be prevented and not all causes of hazards in the working environment can be eliminated. The inclusion of the expression “so far as is reasonably practicable” was aimed at ensuring some degree of flexibility.<sup>49</sup> The principle of prevention referred in this Article is central to all the instruments examined in this General Survey.

58. This further supports the conclusion that a national policy within the meaning of the Convention should be the subject of a continuous review with a view to improving the national OSH situation. The factors driving this process include national aspirations and possibilities, as well as scientific and technological capacities in the country. From an OSH standpoint all countries, whether developed or developing, have no choice but to strive to keep up with rapid technological changes.<sup>50</sup>

59. The dynamic nature of the principle of prevention, as well as of the whole national policy process, implies that progress in OSH is highly dependent on access to reliable statistical data<sup>51</sup> on the actual situation and the impact of efforts made to limit and reduce the number of occupational accidents and diseases. The dearth of such data in many countries is a significant constraining factor for improvements in this area. This explains why the provisions in the Convention and Recommendation were strengthened by the Protocol with regard to recording and notification of occupational accidents and diseases and the publication of national statistics.<sup>52</sup>

## B. National policies in practice

60. Given the dynamic and progressive nature of the subject, an overall assessment of the extent to which Article 4 has been implemented or is reflected in national practice is a complex task which can only be done over time. For the member States that have ratified the Convention, the Committee of Experts has been able to follow this process, and in many cases problems have been resolved and significant progress noted. Overall, the Committee of Experts has found 31 ratifying States to be in compliance with Article 4 of the Convention.<sup>53</sup> For a number of other countries, including some which have ratified the Convention fairly recently, progress is reportedly under way, inter alia,

<sup>48</sup> *ibid.*

<sup>49</sup> See ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, p. 57.

<sup>50</sup> See, inter alia, ILC, 66th Session, Geneva, 1980, *Provisional Record* No. 42, pp. 42/1 and 42/3. The notion of continuous improvement is also reflected in Article 2 of Convention No. 187.

<sup>51</sup> Ideally, progress should be measured with some form of indicators or benchmarking systems, as is done in Austria, **Finland** and **Sweden**, for example. The requirement laid down in Article 5(2)(d) of Convention No. 187 that national programmes shall “include objectives, targets and indicators of progress” should be seen in this light.

<sup>52</sup> The Protocol is examined in Chapter III of this General Survey.

<sup>53</sup> *Algeria, Belarus, Brazil, China (Macau SAR), Cuba, Cyprus, Czech Republic, Denmark, El Salvador, Finland, Hungary, Iceland, Ireland, Kazakhstan, Latvia, Luxembourg, Mexico, Republic of Moldova, Mongolia, Netherlands, Norway, Portugal, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Turkey, Uruguay and Bolivarian Republic of Venezuela.*



through the development of draft national OSH policies.<sup>54</sup> First reports still have to be submitted by six member States.<sup>55</sup> However, based on information available for this General Survey, a preliminary conclusion can be drawn that *Australia*, *China* and *New Zealand* also give effect to this provision and that *Montenegro* is progressing towards giving effect thereto. Among the non-ratifying States, 25 countries report that they have adopted a national policy on OSH.<sup>56</sup> Another 20 countries report that they are in the process of developing such a policy.<sup>57</sup>

61. A number of countries have well-developed national OSH policy systems. This is the case in the United Kingdom, where the current “Strategy for Workplace Health and Safety in Great Britain to 2010 and Beyond” is the latest of a long series of national policies that have been formulated, implemented and reviewed since the 1970s.<sup>58</sup> Several other European countries are also at the forefront in this area, including *Spain*, which was selected as a case of progress by the ILC in 2007,<sup>59</sup> and *Finland*, which, in addition to a sophisticated legal structure, has developed several interlocking national policies in this area. The practice of adopting a national plan as a basis for national action also appears to be firmly rooted in countries such as Japan (11th OSH Plan) and the *Russian Federation*.

62. In many countries, national policies are subject to automatic reassessment in the framework of time-bound strategies. This is the case, for example, in Austria and *Denmark*. The current Danish strategy focuses on labour inspection with a screening of all enterprises over a seven-year period.<sup>60</sup> France is currently evaluating the mid-term results of its 2005–09 Occupational Health Plan, and Germany has developed a common German OSH policy for implementation during 2008–12, with the goal of reducing occupational accidents, musculoskeletal disorders (MSDs) and the incidence of skin diseases. The national policy strategy being developed in *Sweden* will focus on how to combat the increase in occupational stress-related diseases and MSDs. The national strategy on OSH recently adopted in *Portugal* spans the period 2008–12.<sup>61</sup> Italy has concluded its National Plan for Prevention 2005–07 with the adoption of a new comprehensive OSH law, and is designing a new policy to be enacted in 2008. Poland

<sup>54</sup> *Albania*, *Belize*, *Bosnia and Herzegovina*, *Cape Verde*, *Central African Republic*, *Croatia*, *Lesotho*, *The former Yugoslav Republic of Macedonia*, *Mongolia*, *Nigeria*, *Seychelles*, *South Africa*, *Viet Nam* and *Zimbabwe*.

<sup>55</sup> *China*, *Fiji*, *Republic of Korea*, *Montenegro*, *New Zealand* and *Sao Tome and Principe*.

<sup>56</sup> Austria, Belgium, Bulgaria, Canada, Egypt, Greece, Indonesia, Iraq, Italy, Japan, Madagascar, Mauritius, Morocco, Poland, Qatar, Romania, Senegal, Singapore, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom and the United States.

<sup>57</sup> Bahrain, Burkina Faso, Cameroon, Costa Rica, Ecuador, Eritrea, Estonia, Guatemala, India, Islamic Republic of Iran, Jordan, Malaysia, Mali, Paraguay, Peru, Sri Lanka, Suriname, United Republic of Tanzania, Thailand and Zambia. In Suriname, the Labour Ministry intends to ensure that all workers are covered by the OSH policy contained in the Policy Declaration, and special focus is placed on sexual harassment and discrimination related to HIV/AIDS.

<sup>58</sup> See also, for example, Health and Safety Executive Northern Ireland’s Corporate Plan 2005–08 and Operating Plan 2007–08.

<sup>59</sup> See ILC: Committee on the Application of Standards: Examination of individual case (*Spain*), 2007.

<sup>60</sup> See box in Chapter II, section 7, subsection B, para. 96.

<sup>61</sup> In this respect, the UGT expressed the hope that this new strategy would be a key instrument for fundamental change, reducing the deficit concerning working conditions, occupational safety and health and occupational accidents.

recently adopted a policy for the period 2008–15, and *Turkey* is implementing a National OSH Policy for the period 2006–08.<sup>62</sup>

63. Although all countries that have adopted a national policy indicate that it was developed in consultation with the social partners, it can be noted that in *Cuba*, *El Salvador* and *Mexico* the national OSH policy is described as a tripartite declaration. Similarly but more innovatively, in Singapore the Workplace Safety and Health 2015 Strategy includes a Statement of Commitment signed by high-level representatives of Government and employers' and worker's organizations in a targeted campaign. Even though it is not always expressed in the same manner as in the Convention, the principle of prevention is explicitly mentioned in virtually all national policies adopted or in the process of development. While these figures do not reflect how these national policies have been implemented in practice, the fact is that 94 countries, or over half of the Members of the ILO, have developed or are intent on developing a national OSH policy. It is also significant that 31 of these countries have been found to give effect to the provisions in Article 4, and that the available information would suggest that another 28 countries have also reached that stage. A detailed analysis is made below of the requirements regarding the content of the national policies.

#### 4. Main spheres of action

64. In order to prevent occupational accidents and diseases, and to continuously improve the working environment, Article 5 lists five main spheres of action that must be taken into account to fulfil the aims set forth in Article 4:

- controlling the material elements of work;
- adapting the working environment to the workers' physical and mental capacities;
- training of persons involved;
- communication and cooperation; and
- protection of workers and their representatives from disciplinary measures.

65. Overall, the national practice shows that a large number of countries give effect to the provisions of Article 5(a)–(d) through laws, regulations, technical standards and codes of practice developed both by government and by industry. The extent of coverage often reflects the technological and economic activities and capacities of the country. However, the information provided for this General Survey is in most cases of a general nature.

##### A. Controlling the material elements of work

66. According to Article 5(a), the national policy shall take into account the design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes). The elimination of potential workplace hazards of machinery, installations, arrangements, equipment and tools at the source, when they are designed and installed, is the most cost-effective approach to prevention. Their regular maintenance and the availability of related OSH information are also important elements of prevention. Informed choice and substitution, and overall availability of adequate information and instructions on the safe use of chemicals, as well as on protection from physical and biological agents, ensures

<sup>62</sup> *Turkey* is also in the process of adopting new legislation to bring its law into conformity with the Convention.

that the overall “prevention and protection net” is always maintained at the required level.

67. Practically all the countries for which information was available give effect to this provision in varying degrees through their regulatory systems. This includes the general safety requirements for work premises concerning the control of ambient temperature, lighting, ventilation, airborne contaminants, evacuation routes, emergency response equipment, etc. France, for example, has an extensive body of regulations in this area. In *Hungary*, work equipment is deemed to conform to safety standards once it has met market inspection criteria as a product, in accordance with the relevant EU Directives and technical standards. All the material elements of work in workplaces in *Mexico* must comply with a large compendium of technical standards,<sup>63</sup> which are developed and updated regularly by the National Bureau of Standards. In *Morocco*, the Labour Code covers most of the provisions, but does not refer in any specific way to biological hazards and stress. The practical means by which effect is given to these provisions are further discussed below in the context of Article 12 on the responsibility of designers, manufacturers and providers.

## B. Adapting the working environment to the workers

68. Article 5(b) prescribes that in formulating the national policy, account must be taken of the relationships between the material elements of work and the persons who carry out or supervise the work. Machinery, equipment, working time, organization of work and work processes must be adapted to the physical and mental capacities of the workers. This important element of prevention must be addressed in efforts to reduce occupational accidents and diseases. The case of MSDs is a good example of the consequences of failing to take ergonomic requirements into account. MSDs are the most common work-related health problem reported in Europe,<sup>64</sup> affecting millions of workers and the main cause of absence from work in practically all Members of the EU. In some States, 40 per cent of the cost of workers’ compensation, and up to 1.6 per cent of national gross domestic product (GDP), is attributable to MSDs. As described below, international bodies such as the International Organization for Standardization (ISO) and the International Ergonomics Association (IEA) develop technical standards on many ergonomic aspects related to the material elements of work. This is an area where variations in coverage are the greatest and follow the usual divide between technologically advanced countries and other advancing countries.<sup>65</sup>

69. The Committee of Experts has in several cases<sup>66</sup> requested additional detailed information on the effect given to this Article. Many countries<sup>67</sup> have reported that these issues are covered by their national OSH policy or general OSH legislation. In general, the Member States of the EU follow the relevant EU Directives. Several other countries<sup>68</sup> referred to more specific legislation. In *The former Yugoslav Republic of*

<sup>63</sup> National Bureau of Standards: Official Mexican Standards (NOM), at [www.economia-noms.gob.mx](http://www.economia-noms.gob.mx).

<sup>64</sup> *Work-related musculoskeletal disorders: A prevention report*; EU–OSHA, 2008, at <http://osha.europa.eu/en/publications/reports/TE8107132ENC>.

<sup>65</sup> The subject is further developed below in relation to the effect given to Article 12 and the role of technical standards. See Chapter II, section 7, subsection F.

<sup>66</sup> Including in the cases of *Belize, Brazil, Cape Verde, Czech Republic, Hungary, Lesotho, Mongolia and Viet Nam*.

<sup>67</sup> Including *Australia, Belarus, Japan, New Zealand, Spain* and the United Kingdom.

<sup>68</sup> Such as *Canada, Cuba, Cyprus, El Salvador, Mexico, Romania, Singapore, Slovenia, Turkey, Uruguay, Bolivarian Republic of Venezuela* and *Zimbabwe*.

*Macedonia*, the employer must adjust the working process to the abilities of the employees, taking into consideration the nature of the work.

### C. Training of persons involved

70. According to Article 5(c) the national policy should also take into account training, qualifications and motivation of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health. During the preparatory work the words “necessary further training”<sup>69</sup> were introduced to clarify the need for workers with OSH functions to keep their skills up to date in relation to new prevention techniques, technological progress in general and new workplace hazards. The provision of OSH-related training at all levels, in other words the acquisition and maintenance of the knowledge and skills necessary to operate a national OSH system, both at the national level and in the workplace, is essential and must be reflected in the national policy. The available information on national practice indicates that all the reporting countries include training requirements in their OSH legislation.<sup>70</sup>

### D. Communication and cooperation

71. The three instruments examined in this General Survey emphasize the importance attributed to communication and cooperation at all levels of society, from the workplace to the national level. This is reflected, among others, in Article 5(d) of the Convention, which provides that a main sphere of action of the national policy provided for in Article 4 is communication and cooperation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level. Again, mechanisms enabling a smooth flow of information and knowledge between the different components of the national OSH system and cooperation between the social partners involved in the implementation of OSH are essential to ensuring the coherence and effectiveness of the national system.

72. This provision is broad in scope and encompasses both communication and cooperation between employers and workers and their organizations, relevant public and private institutions, technical and scientific institutions and bodies and public authorities with regulatory competence and responsibility for implementing the national policy. It can be said that OSH management is to a large extent a question of maintaining an effective flow of information, both vertically from the work unit level up to and including the national level, and horizontally between all the relevant actors in society.<sup>71</sup>

### E. Protection of workers and their representatives from disciplinary measures

73. Article 5(e) concerns the protection of workers and their representatives from disciplinary measures for actions properly taken by them in conformity with a national policy established pursuant to Article 4.<sup>72</sup> This provision is linked to the more specific protection contained in Articles 13 and 19(f) in respect of actions in response to

<sup>69</sup> ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 43, p. 25/6.

<sup>70</sup> This subject is discussed in more detail below under Article 14 of the Convention. See Chapter II, section 7, subsection C.

<sup>71</sup> This subject, illustrated by examples of national practice, is discussed in detail below, in the context of the examination of the provisions of Article 6 regarding institutional arrangements and action at the national level and at the level of the undertaking. See section 6 below.

<sup>72</sup> See also Chapter III, section 4, subsection A(2).

imminent and serious danger.<sup>73</sup> Although the three provisions should be read together, Article 5(e) is the more general provision and the other two provisions should be read in the light of it. There are two aspects of Article 5(e) that need to be highlighted. The first is that Article 5(e) does not itself seek to prescribe protection of workers and their representatives from disciplinary measures. It prescribes only that a national policy must provide for such protection. In other words, it is for the Member to determine the extent and conditions of the protection in consultation with the most representative organizations of employers and workers. The second is that the protection is only in respect of worker actions “properly” taken in conformity with such a policy.<sup>74</sup> What constitutes proper action may be determined by the policy itself or the methods giving effect to the policy under Article 8. Guidance on what constitutes proper action is afforded by Paragraph 17 of the Recommendation which states that prejudicial measures should not be taken against a worker who complains of what the worker, in good faith, considers to be a breach of statutory requirements or a serious inadequacy in the health and safety measures taken by the employer. Article 5(e) provides considerable flexibility in the manner in which this protection is to be applied and represents a careful balance between the interest of employers to manage the enterprise, on the one hand, and the protection of life and health at work, on the other.

74. European Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work contains a provision comparable to Article 5(e).<sup>75</sup> In practice, the protection required in Article 5(e) appears to be reflected in the national legislation of a majority of the parties to the Convention. The Committee of Experts has recalled on a number of occasions that the protection provided for in Article 5(e) must be afforded not only to representatives of workers or workers’ delegates with OSH responsibilities, but also to individual workers without OSH responsibilities who take actions properly in conformity with the policy referred to in Article 4.<sup>76</sup> This provision does not appear to be applied in *Algeria, Belize, Ethiopia* and *Lesotho*. Further information is required as regards the application of this provision in a number of countries bound by the Convention.<sup>77</sup>

75. Some of the States which have not ratified the Convention report giving effect to this provision,<sup>78</sup> but Article 5(e) appears to be only partially reflected in the law and practice of some other countries.<sup>79</sup> In Mauritius, for example, workers complaining in good faith against breaches of OSH requirements are protected from any form of judicial or disciplinary action, but the same protection does not seem to be expressly extended to

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<sup>73</sup> In this respect, see Chapter II, section 7, subsection E.

<sup>74</sup> A first discussion was held during the 1981 ILC on what was to become the Termination of Employment Convention, 1982 (No. 158), which provides in Article 5(c) that: “The following, inter alia, shall not constitute valid reasons for termination: ... (c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities.”

<sup>75</sup> Article 11, paragraph 4, of the Directive provides that workers and workers’ representatives with specific responsibility for the safety and health of workers “may not be placed at a disadvantage because of their respective activities”.

<sup>76</sup> See direct requests addressed to *Belarus* and *Sweden* in 2006.

<sup>77</sup> Including *Albania, Cape Verde, Central African Republic, Ireland, Mongolia, Nigeria, Slovenia, Serbia, South Africa, Turkey, Viet Nam* and *Zimbabwe*.

<sup>78</sup> Including *Bulgaria, Canada, France, Germany, Ghana, Namibia, Pakistan, Senegal, Trinidad and Tobago, United Kingdom* and the *United States*.

<sup>79</sup> *Guatemala, Mauritius, Poland, Romania, Singapore* and *Ukraine*.

workers' representatives.<sup>80</sup> Ukraine reports that disciplinary action (including dismissals) against workers is subject to the consent of the workers' representatives pursuant to procedures determined by collective agreement. Article 5(e) does not appear to be applied in law or in practice in a significant number of countries<sup>81</sup> that have not ratified the Convention. Moreover, some member States' reports either did not refer to the issue or were not sufficiently detailed to enable any conclusions to be drawn.<sup>82</sup>

## 5. Review of the national policy and national situation

76. The periodic review of the results of action taken is a critical step in verifying the level of coherence of the system and identifying new and existing areas of concern that need further improvement. The regular review of national OSH action in the light of the national situation is a central element of the preventive approach that underpins the progressive, dynamic nature of the instruments at issue. Article 4(1) requires that the national policy be periodically reviewed, and Article 7 provides that the situation regarding occupational safety and health and the working environment shall be "reviewed at appropriate intervals", either overall or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results. Both these provisions reflect the essential feature of the systems management approach, namely the assessment of past performance to serve as a guide for future action.

77. In most countries that have adopted a national policy, the review requirement appears to be a normal element of the system. A number of countries, in particular those which refer to their national law and practice as a reflection of their national policy, such as Belgium and Switzerland, indicate that such review is a constantly ongoing process. In the *Netherlands*, the main OSH Act contains provisions subjecting it to a review within five years of its adoption. In the same vein, a regular review of all registered legislative instruments is ensured: all such instruments must sunset after ten years, unless the Parliament grants an extension.

78. The review of the national policy provided for in Article 4 of the Convention depends on and should be informed by the review of the national situation provided for in Article 7. While these two processes are related, the latter is mainly a factual determination of the situation as compared to the policy review process referred to in Article 4. Some countries simply mention that such a review is among the functions of the tripartite national OSH body overseeing the implementation of the policy.<sup>83</sup> Only a few<sup>84</sup> specifically report that account is taken of scientific and technological progress in their review process.

<sup>80</sup> Mauritius: (1).

<sup>81</sup> Burkina Faso, Cameroon, Congo, Eritrea, Grenada, Israel, Jordan, Lebanon, Madagascar, Mali, Mozambique, Myanmar, Panama, Paraguay, Philippines, Saudi Arabia, Sri Lanka, Suriname, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Thailand, Tunisia and Zambia.

<sup>82</sup> Argentina, Austria, Bahrain, Belgium, Egypt, Greece, Indonesia, Italy, Japan, Morocco and Qatar.

<sup>83</sup> Madagascar, Myanmar, *Slovenia*, Suriname, *Turkey* and *Zimbabwe*.

<sup>84</sup> *Belarus* and the *Republic of Moldova*.

## 6. Institutional responsibilities and cooperation

79. Occupational safety and health is a complex field calling for the intervention of multiple disciplines and the involvement of all stakeholders. The corresponding institutional arrangements to transpose the national OSH policy into action inevitably reflects this complexity. They fulfil the complementary functions of administration and enforcement, consultation, coordination and cooperation, and knowledge generation and dissemination. Article 6 of the Convention provides that the formulation of the national policy shall indicate the respective functions and responsibilities in respect of OSH and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice. Article 15(1) provides for the required coordination and cooperation mechanisms, while Article 15(2), with a significant degree of flexibility, refers to the establishment of a central body as an effective mechanism for overall coordination and cooperation. Further guidance as to the purpose of these arrangements is provided in Paragraph 7 of the Recommendation.

80. All the countries covered by this General Survey regulate the respective functions and responsibilities of public authorities, employers, workers and other stakeholders regarding OSH matters. Variations are seen in the distribution of functions, the type of mechanisms responsible for the various aspects of OSH and the coordination, consultation and cooperation mechanisms. They reflect factors such as the level of economic and technological development, main areas of activity, size of the labour force and political structure. This is particularly true as regards the existence of specialized institutions competent in the technical and scientific aspects of OSH. National practice regarding the specific arrangements and responsibilities as regards employers and workers is considered separately below.<sup>85</sup>

### A. Administrative functions and responsibilities

81. In the field of OSH, public authorities have administrative functions and responsibilities for areas such as policy development and review, the enactment and enforcement of legislation, labour relations and employment, health, science, research, social protection, education, knowledge management, environment and emergency response.

82. In over one half of the countries covered by this survey, the ministry in charge of labour continues to have an important, if not central, role in the formulation and implementation of OSH policy, the administration of the relevant laws and regulations and their enforcement. However, the traditional split between occupational safety and occupational health often means that the ministries in charge of health and of social services also have very important functions and responsibilities, particularly as regards occupational health services and accident and disease compensation.<sup>86</sup> Some countries have therefore merged their ministries of labour, health and social services, as is the case in *Belarus*, where the Ministry of Labour and Social Protection is the national authority responsible for conducting policy and administering compliance with both the OSH and

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<sup>85</sup> See Chapter II, section 8, below concerning implementation at the workplace.

<sup>86</sup> This is the case, for example, in *Algeria*, where the Ministry of Labour is responsible for the development and enforcement of the OSH legislation, while the Ministry in charge of health is tasked with the protection of workers' health. In Switzerland, OSH matters are regulated by two separate sets of laws and regulations, one on the prevention of occupational accidents and the other on health protection, each with its own competent authority. In *Portugal*, the definition of the national OSH policy is the responsibility of both the labour and health ministries.

social protection legislations. In *Finland*, the Ministry of Social Affairs and Health is the highest authority in regard to OSH. Japan merged its labour and health ministries in 2001 to establish a Ministry of Health, Labour and Welfare as the central authority in charge of OSH.

83. Other authorities administering different areas of economic activity requiring specific technical expertise, such as agriculture, energy, mining or environment, may also be involved. In the United States, where mining is a major economic activity under federal jurisdiction, compliance with mine safety and health legislation is administered by the Mine Safety and Health Administration (MSHA), which has its own inspection system.<sup>87</sup>

## B. Coordination, cooperation and consultation

84. Systems for coordination and cooperation between the different authorities and bodies involved in the administration of the national OSH system are necessary to ensure coherence of action at all levels and to facilitate the flow of and access to information. The assignment of this function to a central body is an effective way to enhance the performance of such systems. Mechanisms for the consultation of organizations of employers and workers as well as other stakeholders and their participation in policy and legislation development and review are also needed in order to take their views and concerns into account and ensure their support in implementation.

### (1) *Coordination and cooperation*

85. According to Article 15(1), with a view to ensuring the coherence of the national policy referred to in Article 4 and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organizations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary coordination between various authorities and bodies called upon to give effect to Parts II and III of the Convention. Paragraph 7 of the Recommendation, elaborates on the main purposes of these arrangements.

86. Again, all the countries examined have established coordination, cooperation and consultation mechanisms adapted to their national OSH systems and economic and political structures. The coordination and cooperation mechanisms are fairly varied as to their structure and composition, as well as the bodies they are intended to link. They generally have the common objective of ensuring dialogue and exchange between the different entities at the various levels in the national OSH system. These mechanisms often include representatives of employers' and workers' organizations and of civil society. They may also have advisory functions and take part in the development and implementation of OSH policies and strategies.<sup>88</sup> Canada provides a good example of interprovincial coordination for federal States. The OSH Committee of the Canadian Association of Administrators of Labour Legislation (CAALL),<sup>89</sup> includes members from all provincial and territorial jurisdictions, serves as a forum in which information,

<sup>87</sup> The MSHA is an agency of the United States Department of Labor.

<sup>88</sup> For example, in *Cuba*, coordination and cooperation are ensured by the National OSH Group, which includes representation from the ministries with OSH-related responsibilities and the Cuban Confederation of Workers. In *Japan*, coordination and cooperation are carried out by the Safety and Health Subcommittee of the Labour Policy Council, which is composed of representatives of employers, workers and civil society. In *Albania*, the Consultative Committee presided by the Chief Inspector includes representatives of all the other inspectorates, as well as of organizations of employers and workers.

<sup>89</sup> CAALL-OSH, at [www.caall-acalo.org/struct\\_health\\_e.shtml](http://www.caall-acalo.org/struct_health_e.shtml).



ideas and proposals concerning OSH are exchanged and contribute to the harmonization of provincial OSH laws and regulations. In *Australia*, interstate coordination and cooperation are provided through a multi-stakeholder Commonwealth advisory body, the Australian Safety and Compensation Council (ASCC), which includes representatives from government, as well as organizations of employers and workers. In *Austria*, the OSH Advisory Council under the ministry in charge of labour includes very wide representation of all the inspectorates, the social partners and the technical and scientific bodies with OSH-related responsibilities.

## (2) *Central body*

87. Although setting up multilateral coordination and cooperation arrangements will contribute to coherence and efficiency in the functioning of national OSH systems, the Convention emphasizes the need for simplified overall coordination. Thus, Article 15(2) provides that whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body for this purpose. In order to take into account the wide variety in national circumstances, conditions and practice, a significant measure of flexibility was added to the text during the preparatory work, by including a reference to “arrangements appropriate to national conditions” and “whenever circumstances so require and national conditions and practice so permit”.<sup>90</sup>

88. Central bodies dealing with OSH have been set up in many countries.<sup>91</sup> It should be noted that with the creation of the National Board of Occupational Safety and Health in 1949, *Sweden*<sup>92</sup> was a precursor in this field. Other countries such as *China* and *Peru* are currently envisaging to establish a central body responsible for OSH which will be tasked with developing OSH policies and regulations and coordinating actions with all the stakeholders involved in OSH matters.

## (3) *Consultation*

89. In practice, virtually all the countries covered in this survey provide for consultation on a continuous basis with representative organizations of employers and workers and other stakeholders in the process of formulating, implementing and reviewing the national OSH policy and developing appropriate legislation and infrastructures to administer the national OSH system.<sup>93</sup> These mechanisms may be specifically concerned with OSH matters, or they may be part of high-level advisory bodies covering all labour issues. In *Belgium*, the High Council for Prevention and

<sup>90</sup> ILO: *Safety and health and the working environment*, Report VII(a)(2), ILC, 66th Session, Geneva, 1980, p. 56.

<sup>91</sup> In *Australia*, the ASCC is the central body in charge of national coordination. In *Austria*, the OSH Advisory Council, established within the Federal Ministry of Economy and Labour, is composed of representatives of all the stakeholders involved in OSH matters, including those of employers' and workers' organizations. The Federal Public Service for Employment, Labour and Social Dialogue (SPF) in *Belgium* is the central body responsible for developing, promoting and implementing the national policy on social dialogue and OSH, as well as for overall coordination of action and regulatory enforcement. In the United States, the Occupational Safety and Health Administration (OSHA) is a central body responsible for the development of OSH laws and regulations, their enforcement, and interagency coordination; it is also a national OSH information centre. Other countries that have established a central body responsible for coordination and cooperation include *Argentina*, *Costa Rica*, *Honduras*, *Hungary*, *Ireland*, *Namibia*, *Philippines*, *Senegal*, *United Republic of Tanzania* and *Thailand*.

<sup>92</sup> ILO: *Safety and health and the working environment*, Report VII(a)(1), ILC, 66th Session, Geneva, 1980, p. 11.

<sup>93</sup> Only seven ratifying member States (*Cape Verde*, *Croatia*, *Cuba*, *Ethiopia*, ***Luxembourg***, *Russian Federation* and *Slovenia*) have not also ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Among the remaining respondents, 17 member States have not ratified Convention No. 144.

Protection at Work is the tripartite advisory mechanism that oversees all the national actions related to OSH, in which only the representatives of employers' and workers' organizations have the right to vote. In *Brazil*, the social partners cooperate within the Permanent Tripartite Commission. In Burkina Faso, the Ministry of Labour is assisted by the Labour Consultative Commission on policy issues and by the National Health and Safety Technical Consultative Committee.

## 7. Implementation at the national level

### A. Legislative action at the national level

90. According to Article 8 of the Convention, each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organizations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4. As illustrated by Appendix III to this General Survey, OSH is an area that is extensively regulated.<sup>94</sup>

91. Many countries have chosen to regulate the basic provisions related to OSH together with other labour-related issues in labour codes or factories acts. Others have chosen to address OSH issues in a separate, dedicated piece of legislation. According to the information available, there has been intensive legislative activity worldwide in the area of OSH over the past five years. New or revised labour codes (including provisions on OSH) have been adopted in 19 countries.<sup>95</sup> Possibly inspired by the model set by the United Kingdom in the 1970s, several countries have chosen to develop integrated regulatory OSH frameworks. Over the past five years comprehensive or significantly revised OSH Acts have been adopted in 22 countries,<sup>96</sup> significant amendments to existing comprehensive OSH acts have been adopted in another five countries,<sup>97</sup> and draft comprehensive OSH acts are being finalized in a further four countries.<sup>98</sup>

92. Article 8 offers flexibility in terms of how the Convention is to be implemented. As a complement or alternative to laws and regulations, member States can apply "any other method consistent with national conditions and practice". In some countries, matters related to OSH are regulated through collective bargaining.<sup>99</sup> The reports unfortunately contain little information in this respect. Reference is made in some cases to the

<sup>94</sup> Appendix III contains a list of relevant OSH legislation in the countries covered by this General Survey (except for Haiti for which no information was available). It is based on information provided in reports submitted under articles 19 and 22 of the Constitution of the ILO. In some cases, this information was complemented with publicly available information. The information available was, however, too voluminous and detailed to be reproduced in full in the present context. It was therefore decided to retain a representative selection of main pieces of legislation including, in particular, texts that are referenced in this General Survey.

<sup>95</sup> Armenia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Czech Republic, Egypt, Ethiopia, Ghana, Indonesia, Madagascar, Republic of Moldova, Montenegro, Morocco, Mozambique, Portugal, Qatar, Senegal, Seychelles and Turkey.

<sup>96</sup> Australia, Bosnia and Herzegovina, China, Ireland, Italy, Kazakhstan, Lithuania, The Former Yugoslav Republic of Macedonia, Mauritius, Netherlands, Norway, Peru, Romania, Serbia, Seychelles, Singapore, Slovenia, Spain, United Republic of Tanzania, Trinidad and Tobago, Bolivarian Republic of Venezuela and Viet Nam.

<sup>97</sup> Bulgaria, Denmark, Finland, Germany and Iceland.

<sup>98</sup> Kiribati, Sri Lanka, Turkey and Zambia.

<sup>99</sup> In this respect, the Confederation of Autonomous Trade Unions of Serbia indicated that the provisions on OSH are commonly more closely defined by collective agreements.

participation of workers, for example through enterprise safety and health committees, which is regulated by collective agreements.<sup>100</sup>

93. OSH is an area where guidelines, codes of practice and, above all, technical standards play a very important role. Technical standards are often non-binding; however, in practice, they exert a considerable influence. Furthermore, legislative techniques used in some countries tend to attribute legal significance to standards and guidelines that are formally non-binding. In the United Kingdom, for example, proven compliance with a guideline reverses the burden of proof in terms of responsibility for an accident.<sup>101</sup> In *Australia*, national technical standards and codes of practice adopted by the ASCC are of an advisory nature. Such standards and codes can, however, be made mandatory by law.<sup>102</sup>

94. Recent legislation in the *Netherlands*<sup>103</sup> provides for an innovative mechanism whereby branch-specific codes and practical guidelines – known as working conditions catalogues – can be developed and submitted for approval by the labour inspectorate. Such approval renders them legally binding and applicable as an alternative to other regulations. In this respect, the Confederation of Netherlands Industry and Employers (VNO–CNW) considers that working conditions catalogues should contain examples of good practice, not best practice. In their view, best practice can only be attained by leaders in the industry, whereas good practice is based on the latest scientific and technical knowledge and on a standard considered to be attainable by the majority of enterprises in the sector. More generally, the legislative approach in *New Zealand* is a good example of a comprehensive system. The Government reports that their main OSH legislation<sup>104</sup> is performance-based or “outcome-based” and specifies what has to be achieved, rather than how it is to be achieved. Regulations are established under the Act for some specific types of hazards or workplaces, but the broad duties under the Act are supported and explained by a range of regulations, approved codes of practice and other standard-setting documents.

95. Technical standards complement legislative measures. They are generally developed through collaborative and cooperative as well as peer-review mechanisms, either at the national or at the international level, and therefore represent a consensus among government, employers’ and workers’ representatives and other experts. Technical standards summarize the latest knowledge in the area covered and are simpler to review and update than regulations. The process of developing technical standards also serves to harmonize technical approaches, ensure complementarity between different process elements, as well as facilitate trade. The responsibilities of those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use, as determined in Article 12 of the Convention, are examined in detail below.<sup>105</sup>

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<sup>100</sup> Including in *Argentina, Belize, China, Republic of Moldova, Pakistan and Suriname*.

<sup>101</sup> United Kingdom: (1).

<sup>102</sup> In *Australia (Victoria)*, companies meeting the requirements laid down in compliance codes are presumed to have complied with the relevant provision of the Act or regulations, to the extent that specific duties and obligations are addressed by the code.

<sup>103</sup> *Netherlands*: (1).

<sup>104</sup> *New Zealand*: (1).

<sup>105</sup> See Chapter II, section 7, subsection F.

## B. Enforcement of laws and regulations

### (1) *Adequate and appropriate labour inspection systems*

96. Enforcement of laws and regulations is one of the essential building blocks of a national policy on OSH. As in most ILO Conventions, Article 9, paragraph 1, of the Convention provides that the enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection. The term “adequate and appropriate” is not defined in the Convention but, according to Paragraph 5 of the Recommendation, the system of inspection should be guided by the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129),<sup>106</sup> without prejudice to the obligations thereunder of Members which have ratified these instruments. With 138 ratifications, Convention No. 81 is one of the most widely ratified ILO instruments. Most of the ILO member States that have ratified Convention No. 155 have also ratified Convention No. 81 and are therefore expressly required to establish labour inspection services to enforce, in particular, OSH provisions.<sup>107</sup>

97. Conventions Nos 81 and 129 provide for labour inspection systems to enforce the legal provisions on “conditions of work and protection of workers while engaged in their work such as provisions relating to ... safety, health and welfare ... and other connected matters, in so far as such provisions are enforceable by labour inspectors”.<sup>108</sup> They also grant very wide powers to labour inspectors in respect of OSH matters, ranging from the prevention of accidents to making remedial orders with immediate executory force. In its General Survey of 2006 on labour inspection,<sup>109</sup> the Committee of Experts concluded that the functions of labour inspection are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers. The manner in which these functions are discharged varies greatly between countries according to the amount of time devoted to the various inspection functions, the actions undertaken either at the initiative of the inspection services or in response to complaints, functions relating to OSH and those relating to compliance with other conditions of employment.<sup>110</sup>

98. The information provided in the context of the present survey confirms that the preventive functions of labour inspectorates are becoming increasingly important. Belgium, for instance, reports that the traditional mission of inspection and enforcement is now focused on technical assistance and information. Even though the regulations concerning welfare at work constitute the basis for inspection activity, and OSH is a priority area of labour inspection, penalties are imposed only as a last resort. In Bulgaria, the General Labour Inspectorate contributes systematically to the development of OSH policies and strategies.

<sup>106</sup> See also ILO: *Labour inspection*, Report III (Part 1B), ILC, 95th Session, Geneva, 2006.

<sup>107</sup> Only eight member States that have ratified Convention No. 155 have not ratified Convention No. 81: *China, Czech Republic, Ethiopia, Iceland, Mexico, Mongolia, Slovakia and South Africa*. Among the respondents to the present survey the following countries have not ratified Convention No. 81: Canada, Eritrea, Myanmar, Namibia, Nicaragua, Philippines, Singapore and Thailand.

<sup>108</sup> Art. 3(1)(a) of Convention No. 81 and Art. 6(1)(a) of Convention No. 129.

<sup>109</sup> ILO: *Labour inspection*, General Survey of the reports concerning the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), Report III (Part 1B), ILC, 95th Session, Geneva, 2006.

<sup>110</sup> *ibid.*, para. 368.

99. However, as noted in the context of the General Survey of 2006 on labour inspection, an appropriate balance must be struck between preventive and advisory functions, and enforcement functions. While “promotional activities to raise awareness of working conditions and of labour inspection are important, these should not have priority over the principal functions entrusted to inspectors, to which the available resources should always be allocated first”.<sup>111</sup> As regards *New Zealand*,<sup>112</sup> these concerns were echoed by the New Zealand Council of Trade Unions (NZCTU), which refers in positive terms to the national preventive programmes for education, training and information on employment legislation and health and safety requirements, but points out that under-resourcing of the Health and Safety Inspectorate limits its ability to ensure workplace accountability for compliance with health and safety in employment standards.<sup>113</sup> The complementary nature of the functions of labour inspection is also highlighted by the NZCTU, which expresses concern regarding the need to strengthen monitoring and enforcement measures to support education and accident prevention initiatives.

100. The General Survey on labour inspection also underscores the crucial importance of providing labour inspectorates with the necessary material and human resources to ensure that they can function effectively and that, as a minimum, the workplaces under their supervision are inspected thoroughly and with sufficient frequency. The CTUSAB of Barbados points out that the labour inspectorate is affected by insufficient staffing, inadequate transport facilities and equipment and a general lack of specialization in technical areas. The Netherlands Trade Union Confederation (FNV) indicates that the labour inspectorate has only eight full-time posts for the supervision of asbestos removal, that far too few inspections in this regard are carried out and that cooperation between inspection services is not coordinated.

101. Information submitted for the present General Survey confirms persistent problems in this respect in a number of countries.<sup>114</sup> Positive developments can be noted in some countries, including Bahrain and Saudi Arabia, where the Ministry of Labour is developing the occupational inspection system by increasing the number of safety inspectors as well as training the necessary number of personnel for this purpose. In *Mexico* some 100 new labour inspector posts were created in 2007 and a Programme to Improve the Federal Inspection of Occupational Safety and Health in the Coalmining Region was implemented. The *Netherlands* reports a progressive extension of its Labour Inspectorate.<sup>115</sup> In *Panama*, the staff of the labour inspectorate has also been strengthened.<sup>116</sup> *South Africa* reports that it has recently introduced an integrated inspectorate and that 1,150 inspector posts have been created, but that it has been

<sup>111</sup> loc. cit.

<sup>112</sup> See also the direct request addressed to *New Zealand* in 2008 on the application of Convention No. 81. See also RCE, 2008, concerning the application of Convention No. 81 by *Portugal*, where the employers’ and workers’ organizations expressed different views as to the balance to be struck between prevention and enforcement.

<sup>113</sup> In this respect, the New Zealand Government indicates that it is examining funding for administration and enforcement of the Health and Safety in Employment Act.

<sup>114</sup> Including *Algeria* (sanctions), Argentina, Burkina Faso, Cameroon, *Cape Verde*, *Central African Republic*, Congo, *Lesotho*, Mali, Myanmar, Pakistan, Paraguay, Sri Lanka, Syrian Arab Republic and *Zimbabwe*.

<sup>115</sup> The *Netherlands* also refers to its active involvement in the Senior Labour Inspectors Committee (SLIC), the official advisory and coordination body of the European Commission. SLIC established the common principles for labour inspection which are used as a frame of reference for SLIC evaluations of national labour inspectorate systems.

<sup>116</sup> RCE, 2007 (Panama) concerning the application of Convention No. 81.

difficult to fill these posts with suitably qualified persons and that over half of these posts remain vacant.<sup>117</sup> *Albania, El Salvador* and *Ethiopia* all report intentions to improve their labour inspection systems.

102. Labour inspectorates in general are being restructured and modernized in several countries and, in some countries, improvement efforts specifically targeted OSH inspectorates. In *Brazil*, regulations have been adopted on the functioning of the labour inspectorate under the Labour Inspectorate Decree of 2002.<sup>118</sup> In the *Czech Republic* a central National Labour Inspection Office and Regional Labour Inspectorates have been established<sup>119</sup> and improvement efforts through labour inspection targeted at the construction sector have yielded positive results. *Denmark* recently undertook a comprehensive reform of its labour inspection system,<sup>120</sup> including a scheme under which the Danish Working Environment Authority will screen the health and safety conditions of all Danish enterprises over a period of seven years (see box below). In *Egypt*, the Labour Code of 2003 focuses on the development of the OSH role of the labour inspectorates. Due to resource constraints, *Greece*, *Grenada* and *Mauritius* have decided to target high-risk sectors, such as construction, in their improvement efforts. In *Mozambique*, a new Labour Code provides, inter alia, for merging the inspectorates into a single body, and permitting a more rational use of human and material resources. In *Qatar*, efforts have been made to minimize the risk of industrial accidents caused by ignorance of the Arabic language by training labour inspectors to provide information and advisory activities for non-Arabic-speaking employers and workers.<sup>121</sup> In *Argentina*, current legislation provides that the private enterprises responsible for the management of the compulsory occupational risk insurance are also required to monitor the implementation of OSH requirements, as well as to signal any possible violations thereof.<sup>122</sup>

#### **Denmark – The Smiley Scheme**

In the period 2005–12, the Danish Working Environment Authority will screen the health and safety conditions of all Danish enterprises. Under this “Smiley Scheme”, the publication of the outcome of this screening and the status of enterprises’ health and safety conditions is mandatory and is available on the Working Environment Authority’s web site ([www.at.dk](http://www.at.dk)). As of 27 November 2008, a total of 35,498 enterprises had been screened and graded as follows:



2 143  
enterprises



25 415  
enterprises



6 315  
enterprises



1 625  
enterprises

<sup>117</sup> *Portugal* also refers to problems related to the filling of vacancies in the inspectorates.

<sup>118</sup> *Brazil*: (13).

<sup>119</sup> *Czech Republic*: (4).

<sup>120</sup> *Denmark*: (1) and implementing regulations.

<sup>121</sup> Direct request addressed to *Qatar* in 2006.

<sup>122</sup> *Argentina*: (1), (2).

(2) *Adequate penalties*

103. As emphasized in the General Survey of 2006 on labour inspection, it is essential for the credibility and effectiveness of regulatory systems that types of violations and related penalties be defined in the national legislation in proportion to the nature and gravity of the offence. In similar terms to the relevant provisions in Conventions Nos 81 and 129, Article 9, paragraph 2, of Convention No. 155 states that the enforcement system shall provide for adequate penalties for violations of the laws and regulations. As discussed during the preparatory work, the terms “penalties” in English and “*sanctions*” in French were considered to be synonymous and were intended to cover penal, administrative and contractual penalties, but not prohibition notices.<sup>123</sup>

104. The legislation of most countries provides for penalties in cases of violation of the legal provisions enforceable by labour inspectors. Most prescribe both fines and terms of imprisonment. Many countries have developed elaborate sanctioning systems with a full range of enforcement options.<sup>124</sup> In others, such as *Algeria*, *Argentina*, *Dominican Republic*,<sup>125</sup> *El Salvador*, *Lithuania*<sup>126</sup> and *Zimbabwe*, however, the sanctions do not appear to be as effective; while in other countries, such as *Bahrain*, *Cameroon*, and *Grenada*, a sanctioning system appears to be lacking altogether. With regard to *Barbados*, the CTUSAB refers to a BDS\$10 penalty in the event of failure to notify the competent authority of an occupational disease, highlighting the inadequacy of the penalty in relation to the seriousness of the offence.

(3) *Complementary and voluntary mechanisms*

105. The available information also reflects a wide range of complementary enforcement mechanisms and strategies. Some mechanisms are aimed at reinforcing the punitive nature of the penalties imposed by, for example, publicizing the sanctions. These include the Smiley Scheme in *Denmark*.<sup>127</sup> In *Portugal* and *Spain*, a sanction may be combined with a decision to publicize the sanction in cases of recurrent, serious or very serious offences. In *Portugal*, a sanction can also be coupled with a prohibition against participation in public tenders for contracts. In the United Kingdom, information on improvement and prohibition notices must be made publicly available. In *Uruguay*, companies that have received a warning are entered in the register of enterprises having committed offences. In *Switzerland*, sanctions can include an increase in insurance premiums and, in *Thailand* and the United Kingdom, the withdrawal of permits and the suspension or revocation of the company’s licence to operate. In *Canada* (Manitoba) it is possible to prohibit a person convicted of an offence from working in a supervisory capacity at any workplace for six months after the date of conviction, which is an example of other complementary sanctioning strategies.

106. It is important to stress the role from the point of view of prevention played by certain complementary monitoring mechanisms. For example, in some countries the Attorney-General’s Office is empowered to litigate on behalf of the society as a whole for the protection of safety and health in the working environment. In cases of an actual or potential threat to safety and health at the workplace, judicial measures can be

<sup>123</sup> ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 50, pp. 25/6–25/7.

<sup>124</sup> Including *Australia*, *Belgium*, *Brazil*, *Canada*, *Denmark*, ***Finland***, *Mexico*, *Netherlands*, *New Zealand*, *Portugal*, *Spain*, ***Sweden***, *Switzerland*, *United Kingdom*, *United States* and *Uruguay*.

<sup>125</sup> See RCE, 2007, concerning the application of Convention No. 81.

<sup>126</sup> See RCE, 2006, concerning the application of Convention No. 81.

<sup>127</sup> See box on *Denmark* above.

pursued, including the imposition of heavier fines for non-compliance. Such measures strengthen exponentially the rule of law. By the same token, specialized inspection services contribute significantly to the full achievement of the Convention's aims.

107. Other strategies are remedial in nature and seek to ensure that problems found are rectified. This can be done by issuing "improvement notices", as in *Australia (Western Australia)* and the United Kingdom, "remedial measures orders" and training orders, as in *Australia (Northern Territory)* and *The former Yugoslav Republic of Macedonia*, and legally binding "enforceable undertakings" in *Australia (Queensland)*. The ten enforceable undertakings accepted in 2004–05 were estimated to lower the costs to workplaces, industry and the Queensland community by about A\$1.6 million. In Canada (Ontario) successful "proactive" inspections are used as an incentive to reduce the frequency of regular inspections.

#### ***Australia (Victoria) – A proactive enforcement strategy***

*Australia (Victoria)* has recorded a sharp drop in the total number of workplace interventions since the change, in 2001, of its enforcement focus from a reactive to a proactive approach. The ratio of proactive to reactive visits changed from 60:40 to 80:20. The increased emphasis on the effectiveness of visits led to the introduction of independent, six-monthly surveys of inspected workplaces, in which manager and employee representatives were contacted to gauge their perception of the effectiveness and professionalism of the inspection. Proactive interventions – defined as all workplace visits that have not resulted from a complaint or workplace incident – include all planned interventions, routine workplace visits, inspections, audits and industry forums or presentations (where an inspector provides educational advice or information). In 2005–06, more than twice as many proactive workplace interventions were carried out as reactive interventions. Using a more structured, evidence-based, proactive approach for identifying where inspectorate resources should be deployed has been more successful than responding to "low-risk" situations on an ad hoc basis.

108. As noted in the General Survey on labour inspection,<sup>128</sup> enterprises are taking on more responsibility with respect to occupational safety and health, for example, by adopting mechanisms for evaluating occupational hazards. In addition to risk assessments, which are increasingly required as part of the effective management of OSH in the workplace, some countries have introduced voluntary schemes involving successful audits as a requirement for participating in such schemes. The United States operates two programmes based on voluntary participation, the Voluntary Protection Program (VPP) and the Safety and Health Achievement Recognition Program (SHARP), which specifically targets SMEs. In both cases, participation and acceptance into the programmes are subject to audits carried out by the Occupational Safety and Health Administration (OSHA), and, if accepted, are inspected less frequently. *Australia (Commonwealth)* operates a similar accreditation scheme for the construction industry that is also based on audits. The *Netherlands* has adopted a proactive approach to preventing major accidents by setting up the Additional Risk Inventory and Evaluation (ARIE) for companies storing or using large quantities of dangerous substances, and special inspection requirements.<sup>129</sup>

<sup>128</sup> op. cit., see box after paragraph 278.

<sup>129</sup> The Confederation of Netherlands Industry and Employers (VNO–CNW) considers these regulations too complicated, arguing that they impose additional national requirements beyond those laid down by ILO Conventions and European Directives. In its view, the fact that, as highlighted by the National Federation of Christian Trade Unions in the Netherlands (CNV) and the Netherlands Trade Union Confederation (FNV), following a series of inspections relating to compliance with the ARIE regulations, the labour inspectorate had to issue warnings or demands for compliance in 50 per cent of the cases was partly due to the complexity of these regulations. It considers that the ARIE regulations could be scrapped without any impact on the level of protection afforded to workers.



## C. Guidance and information on OSH

### (1) *Providing guidance to ensure compliance*

109. As part of the requirement set out in Article 5(d) to provide for communication and cooperation at all levels of society, Article 10 specifically provides that measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations. Laws and regulations related to OSH reflect the complexity and multidisciplinary nature of this field. As a result, effective workplace compliance with legislation depends, to a large extent, on an appropriate access to and understanding of the technical and scientific principles that are transposed into rules to govern the prevention of workers' exposure to hazards and risks. As emphasized in Paragraph 4(d) of the Recommendation, it is important for employers, workers and their organizations to cooperate in this respect. During the preparatory work a provision was added to take account of migrant workers and their need for training and information in their mother tongue.<sup>130</sup>

110. In most countries, the ministry in charge of labour is assigned a major role in providing relevant guidance and information on legislation in the area of OSH to employers and workers, through the labour inspectorates, the Internet or other interactions with constituents. In addition to their enforcement functions, the labour inspectorates play a crucial and increasingly important part in training, education and awareness-raising. These functions are supported by and often shared with medical labour inspectors, occupational health services and social provident funds. Inspectorates play a particularly prominent role as conveyors of guidance and information on compliance with OSH legislation in countries where they are the only national institution dealing with OSH issues, as indicated in the General Survey of 2006 on labour inspection.

111. Labour inspectorates and other inspectors continue to be the main and often the only source of advice and information not only on regulatory but also on technical aspects of OSH in many countries, particularly in developing countries.<sup>131</sup> In many industrialized countries, labour inspectors have been entrusted over the years with the duty of assisting and informing employers and workers on regulatory and technical matters pertaining to OSH. A good example is *New Zealand*, where this is done at both individual and national levels. At the regional and national levels, the inspectorate as a whole takes part in education programmes and workshops on health and safety in the workplace.

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<sup>130</sup> ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, para. 151.

<sup>131</sup> For example, *Algeria*, *Burkina Faso*, *Cameroon*, *Congo*, *Madagascar*, *Mauritius*, *Morocco*, *South Africa*, *Tunisia* and *Zimbabwe*.

### ***New Zealand – Prevention and education strategies***

In the period 2006–07 the Department of Labour carried out 3,378 information and education visits and seminars for *New Zealand* businesses and their employees. The Department cooperates with other injury prevention agencies on prevention and education strategies. They work together with the Accident Compensation Corporation in high-risk industries such as boat building, forestry and agriculture. A range of tools, including information, is used to target employers and employees in these industries. The Department's web site \* also provides information to employees, employers and others with OSH duties. This includes information not only on meeting requirements, but also on best practice. The Department of Labour also provides a free telephone call centre, to which people can address any inquiries relating to workplace health and safety.

\* [www.dol.govt.nz](http://www.dol.govt.nz) and [www.workinfo.govt.nz](http://www.workinfo.govt.nz).

112. In some countries, guidance and information are mainly conveyed through national specialized bodies capable of handling and disseminating large flows of data, such as central OSH agencies and dedicated institutes, occupational health services and workmen's compensation administrations, as well as vocational education systems, which are often established by employers' and workers' organizations. Professional associations and approved technical certification bodies also play an information role in the process of certification of OSH-related skills. The advent of the Internet and other modern communication systems has greatly facilitated access to and dissemination of free and reliable informative publications through networks linking major national, regional and international agencies with responsibilities in the OSH area. A large number of labour inspectorates offer consultations on request, either in their offices or by telephone, post or electronic mail. The reports from countries indicate that efforts to provide guidance, information, education and awareness raising on OSH have steadily increased over the past 25 years and that all available means of communication are now being used to facilitate this access and increase knowledge of OSH legislation. In this respect, it should be noted that in Colombia, 40,000 workers in the informal economy (informal trade, agriculture, farming, coffee plantations and the informal mining sector) were reported to have been provided with guidance and information on OSH standards by direct actions and, between 2005 and 2006, 2,000 women in the informal rural sector benefited from a programme aimed at promoting health and prevention of occupational risks through training, awareness-raising and other intervention actions.

113. Central OSH bodies,<sup>132</sup> where they exist, are usually responsible for providing guidance and information on how to apply OSH requirements, and for the publication of guidance, technical and training manuals as well as the initiation of promotional and awareness-raising events. These institutions make extensive use of the Internet and electronic publications to facilitate wide access to reliable OSH knowledge and information. They also participate in numerous national, regional and international meetings of experts focused on the elaboration of international policy and technical guidance on OSH.

114. The web site of the Canadian Centre for Occupational Health and Safety (CCOHS)<sup>133</sup> is the main Canadian portal for accessing reliable national and international OSH information. CCOHS also maintains the CanOSH web site,<sup>134</sup> designed to provide Canadians with a convenient and efficient one entry way to access

<sup>132</sup> See Chapter II, section 6, subsection B(2).

<sup>133</sup> [www.ccohs.ca](http://www.ccohs.ca).

<sup>134</sup> [www.canoshweb.org](http://www.canoshweb.org).

health and safety information provided by the federal, provincial and territorial government agencies responsible for OSH, workers' compensation boards and the CCOHS. In the United States, OSHA is the focal point for regulatory and technical OSH information. It is assisted by the National Institute for Occupational Safety and Health (NIOSH), which is the federal agency responsible for conducting research and making recommendations for the prevention of work-related injury and diseases. European Union (EU) Member States all have relatively centralized systems providing OSH guidance and information to employers and workers. They all have strong links with the European Agency for Safety and Health at Work (EU-OSHA).<sup>135</sup> Labour or OSH inspectorates continue to play a major role in this area in all the EU Member States.

115. The Federal Public Service Employment, Labour and Social Dialogue<sup>136</sup> in Belgium integrates all the functions related to the provision of guidance and information to employers and workers, as well as the general public. In Austria, the Labour Inspectorate is responsible for supporting and advising employers and workers on the implementation of OSH regulatory requirements. The Health and Safety Executive (HSE)<sup>137</sup> in the United Kingdom, which is considered internationally as a model of integration and effectiveness in this area, has the duty to provide a very comprehensive guidance and information service, in relation to OSH requirements. In the *Netherlands*, the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Federation (FNV) state that the Netherlands Standardization Institute (NEN)<sup>138</sup> standards referred to in laws and regulations, which employers and employees are required to be familiar with, have to be purchased from NEN at considerable cost. The CNV and the FNV consider that these standards should be made available free of charge.

116. Most of the national institutions involved in OSH regulation have, over the years, built up substantial libraries of OSH-related information in addition to the texts of laws and regulations. With the advent of the Internet, these bodies have linked up with one another to build regional and global networks which enable them to exchange this knowledge rapidly. This global web of tightly interlinked institutions now provides open and usually free access to an immense electronic directory of legislative texts, technical guidance and standards, training materials, scientific data, statistics and publications related to all aspects of OSH. Some of the more active and well-known networks are regionally based. The EU-OSHA (see box below) is the hub of a network linking the web sites of all the main OSH institutions of the EU Member States, as well as those of candidate countries, the Member States of the European Free Trade Association (EFTA) and *Turkey*. EU-OSHA functions as an OSH information Internet portal making EU and national legislation, publications, statistics and research results on various aspects of OSH available to members and the public. Other examples of regional networks active in the development and dissemination of OSH knowledge and information are the Baltic Sea Network on Occupational Health and Safety (BSN),<sup>139</sup> founded in 1997 in Northern Europe with assistance from *Finland*, and the Association of Southeast Asian Nations

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<sup>135</sup> <http://osha.europa.eu>.

<sup>136</sup> [www.emploi.belgique.be](http://www.emploi.belgique.be).

<sup>137</sup> [www.hse.gov.uk](http://www.hse.gov.uk).

<sup>138</sup> NEN is a national knowledge centre, providing services for the development of standards and limit values. It also seeks to function as a comprehensive repository where people can look up these standards as and when they need them ([www.nen.nl](http://www.nen.nl)).

<sup>139</sup> The Baltic Sea Network on OHS links *Denmark*, *Estonia*, *Finland*, *Germany*, *Latvia*, *Lithuania*, *Russian Federation (Northwest region)*, *Norway*, *Poland* and *Sweden*, at [www.balticseaosh.net/](http://www.balticseaosh.net/).

(ASEAN) Occupational Safety and Health Network (ASEAN-OSHNET)<sup>140</sup> launched in 1976. OSH-related exchanges also take place under the Southern Cone Common Market (MERCOSUR) and the Andean Community (CAN) in Latin America and the North American Free Trade Agreement (NAFTA). In Africa, the Southern African Development Community (SADC)<sup>141</sup> is active in the area of OSH, particularly with regard to HIV/AIDS and the world of work.

#### **European Agency for Safety and Health at Work \***

EU-OSHA's mission is to make Europe's workplaces safer, healthier and more productive, and in particular to promote an effective workplace prevention culture. It is a tripartite organization, which is a single reference point for OSH information in the European Union. It helps explain the European legislation on OSH, commissions, collects and publishes new scientific research and statistics on OSH risks, shares good practices and communicates information in a variety of ways to reach workers and workplaces. Its European Risk Observatory aims to identify new and emerging risks based on data made available by EU Member States. The main safety and health information network is made up of a focal point in each EU Member State, as well as in candidate and EFTA countries. These focal points, which are normally the national competent authority for OSH, manage the national Agency web sites, organize the annual European Week for Safety and Health at Work, and nominate representatives to Expert Groups commissioned by the Agency to carry out research on various OSH topics. With more than 30 countries participating, and some 4 million information materials distributed in 20 languages, the European Week has become one of Europe's largest annual awareness-raising campaigns for a healthier, safer and more productive workplace. Topic Centres are consortia of national safety and health institutions that collect and analyse existing national data to support work in key areas such as Working Environment Information and the Risk Observatory. More than 300 Euro Info Centres (EICs) provide businesses with information on matters relating to the EU. The EICs answer around 360,000 direct queries from SMEs every year on a wide range of subjects, including OSH. The Senior Labour Inspectors Committee (SLIC) is both a forum for close collaboration and information exchange between experts from the Member States and the Commission and a network of officials working towards the achievement of effective enforcement of Community social legislation. Labour inspectorates make all those concerned aware of their responsibilities for occupational safety and health and, where necessary, compel them to carry out necessary improvements. The Agency contracts various ad hoc research teams from leading academic and OSH-related institutions, as well as consultants for specific projects.

\* <http://osha.europa.eu>.

117. The ILO was a pioneer in this area at the international level, given that it built the first international OSH network a long time before the Internet was developed. The International Occupational Safety and Health Information Centre (CIS)<sup>142</sup> was created in 1959 by the ILO as an OSH information clearing house for 11 national and three international bodies.<sup>143</sup> It has now grown to a global network of 150 national specialized institutions covering all continents and engaged fully in OSH information and technical assistance exchange. In most cases, the CIS National Centres are government agencies with direct responsibilities for labour affairs and strong links with labour inspectorates,

<sup>140</sup> ASEAN-OSHNET links Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and *Viet Nam*, at [www.aseanoshnet.net/](http://www.aseanoshnet.net/).

<sup>141</sup> SADC: [www.sadc.int](http://www.sadc.int).

<sup>142</sup> [www.ilo.org/cis](http://www.ilo.org/cis).

<sup>143</sup> Libraries of OSH institutions in Austria, Belgium, *Denmark*, France, Germany, Italy, *Netherlands*, *Norway*, *Sweden*, Switzerland and the United Kingdom. The international participants were the ILO, the International Social Security Association (ISSA) and the European Coal and Steel Community (ECSC).

particularly in developing countries, but employers' and workers' organizations and independent institutes are also represented. Representatives of CIS Centres hold annual meetings to discuss current issues affecting the network and to share experience on how to serve the international OSH community better. Most of the CIS national centres have web sites providing free access to the texts of national OSH legislation, training course information, manuals, best practices, or various materials that can be used readily for awareness-raising events. Many of these centres were developed with ILO technical cooperation assistance.

(2) *Including OSH at all levels of education and training*

118. The importance of OSH education and training, not only to those immediately concerned with the issue, but also to society as a whole, is underlined in Article 14, which requires that measures shall be taken with a view to promoting, in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers. The main implication of this provision is that early familiarization with and knowledge of OSH principles through national educational and training systems is the most effective way to ensure compliance, while increasing awareness among future employers and workers.

119. This provision deals with two challenges in perpetual evolution, namely, the ever-changing world of work and the continuous renewal of the working population. The first process generates new workplace hazards and risks, while the second highlights the importance of knowledge and education in hazard and risk reduction strategies. It is only after identification of a hazard and evaluation of its risks that regulatory, preventive and protective measures and skills can be developed and implemented. Integrating concepts of OSH at all levels of education enables future employers and workers to be naturally aware of hazards and risks and the importance of prevention, both at work and at home. In this context, Article 14 provided the basis that led 25 years later to the inclusion in the most recent OSH instrument, Convention No. 187, of the concept of a "preventative safety and health culture" and the need to build upon and maintain it through continuous awareness raising, education and training.

120. In practice, the degree and level of inclusion of OSH issues in national education systems largely depend on the level of development of these systems and on the economic and specialized personnel available. In many developing countries,<sup>144</sup> particularly in Africa, OSH education is limited to training of labour inspectors, basic training provided by employers to workers, and inclusion of OSH concepts in training and awareness-raising courses for employers and workers' representatives.<sup>145</sup> Although little information is available in the reports, it is probable that some aspects of occupational safety are included in the training curricula of occupational health

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<sup>144</sup> *Belize, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Congo, Egypt, Eritrea, Ghana, Grenada, India, Indonesia, Madagascar, Mali, Morocco, Namibia, Pakistan, Qatar, Saudi Arabia, Senegal, Sri Lanka, Suriname, South Africa, Syrian Arab Republic, United Republic of Tanzania, Trinidad and Tobago, Tunisia, Turkey, Bolivarian Republic of Venezuela, Zambia and Zimbabwe.*

<sup>145</sup> In this respect, some employers' and workers' organizations refer to the training programmes offered by them: for example Business New Zealand's member employers' organizations regularly hold courses in OSH. Similarly, the New Zealand Council of Trade Unions (NZCTU) indicates that it is one of the major providers of OSH training, which is funded by the Accident Compensation Corporation (ACC). The NZCTU also states that *New Zealand* has a very successful programme of training elected worker representatives to enable them to participate in the development of health and safety plans and systems for managing existing and potential workplace risks.

physicians or of technicians in charge of the certification of machinery guarding devices and other sensitive equipment such as pressure vessels. However, it seems that efforts are beginning in countries such as Ecuador or India, where this question has been included in their new draft national OSH policies, or Trinidad and Tobago, where the OSH Agency is currently working on an agreement with the Ministry of Education and other education institutions to include OSH training in the curriculum.

121. In Eastern European countries, OSH issues are part of the curriculum at all levels of education, including secondary schools; this is the case, for example, in *Belarus* and the *Republic of Moldova*. In *Slovenia*, education and training on safety and health at work must by law<sup>146</sup> form an integral part of general and vocational education in schools of all types and levels, as well as of ongoing training for workers. In the same way, Ukraine has extended its “lifelong learning system” to OSH issues in educational institutions at all levels, including pre-school.

122. In the EU, formal inclusion of OSH issues in education systems is rising at a reasonable pace in most of the Member States. In *Portugal* national legislation provides that OSH issues form part of the school curriculum, including in professional and technical schools.<sup>147</sup> In *Spain*, extension of the teaching of prevention principles to all educational levels, including professional training, is a fundamental goal of the national OSH policy. In the United Kingdom the HSE works closely with training organizations which provide national vocational qualifications, including those for health and safety practitioners.

123. In Latin America, specific OSH courses in *Brazil*, for example, are provided within the framework of specialized studies for occupational health physicians, safety engineers and technicians. OSH issues are included at all levels of the education system in *Cuba*. Higher OSH education is being developed in *Mexico*, particularly for occupational health physicians and OSH specialists. In Honduras, university engineering courses cover OSH issues.

124. In Asia, in *China*, OSH training is included at many levels of the education system, but particularly at its Labour Relations College, which plays an important role in international labour information exchange systems. OSH education is very advanced in Singapore, where these subjects form part of the curriculum of polytechnical schools and universities. In addition, generic OSH competency standards are being developed under the Workforce Skills Qualification framework used in relevant training programmes. In Japan, education on safety is given in the context of “health” in the kindergarten curriculum, and education on safety, health and the work environment is provided through health and physical education classes in elementary and senior high schools. The JTUC-RENGO indicates in this regard that the budget for OSH education is insufficient. In many Asian countries, professional associations of OSH specialists who belong to the International Occupational Hygiene Association (IOHA) play a significant role in promoting the inclusion of OSH questions at all levels of education and training.<sup>148</sup>

<sup>146</sup> *Slovenia*: (1).

<sup>147</sup> *Portugal*: (1).

<sup>148</sup> The IOHA has contributed to many OSH-related activities of both the ILO and WHO, and has consultative status with both organizations ([www.ioha.net/members-2.htm](http://www.ioha.net/members-2.htm)). Its membership includes 24 national associations, some of which are known worldwide, such as the American Industrial Hygiene Association, the British Occupational Hygiene Society and the Canadian Registration Board of Occupational Hygienists.

#### D. Progressive extension of the national policy

125. As noted previously, the broad and comprehensive scope of the Convention is coupled with a considerable degree of flexibility regarding its implementation in practice. During the preparatory work it was explicitly recognized that “whereas most of the instruments adopted by the ILO had to be applied directly after ratification, the present instrument, being very wide in scope, covered the entire field of occupational safety and health, and one could hardly hope for its immediate application. The progressive aspect was therefore fundamental”.<sup>149</sup> Article 11 is also innovative in regard to flexibility, since it provides that, when fulfilling their obligations to extend the scope of the national policy to include six specifically enumerated “functions”, ratifying member States to the Convention can do so progressively. Each of these functions relates to areas in which the implementation of a preventive approach is important, as well as being highly demanding both technically and in terms of resources. The progressive carrying out of these functions is specifically limited to those functions set out in Article 11 and does not extend to any other provisions of the Convention.

126. Article 11 amplifies the spheres of action determined in Article 4 by focusing specifically on the elements most likely to be a source of occupational hazards and risks for the safety and health of workers, and which need to be regulated. These provisions are articulated in such a way as to ensure that the main steps of identification, assessment, control, review and progressive action toward improvement are part of the overall management of occupational hazards. This is further explained in Paragraph 4<sup>150</sup> of the Recommendation, which refers specifically to the need for the enactment and review of regulatory and other control tools, research and studies to assess hazards and risks, the provision of information and advice, and measures to prevent major industrial accidents. Paragraph 3 also provides further guidance as to technical fields in which OSH concerns call for regulatory action. As noted in the introduction, many of these fields are regulated in other ILO standards.

127. At the national level, a simple glance at the list of national legislation in Appendix III to this survey provides a sobering illustration of the size of the task involved in identifying the multitude of occupational hazards that may occur in the workplace and their sources, and transposing this knowledge into regulations that can be implemented and enforced, as well as into practical guidance and information that can be used by employers and workers to comply with OSH requirements. All of the countries surveyed give effect under their legislation to the provisions of Article 11, with varying degrees of coverage and different approaches. The coverage is broad in technologically and economically developed countries. In a significant number of developing countries, the survey information indicates that efforts have been and continue to be made to extend this coverage progressively. In this context, the liberalization of trade, the resulting global presence of multinationals in these countries, can contribute to improving OSH.<sup>151</sup> The increasing number of OSH-related controls placed on imported goods by many countries are strong incentives for progress in these countries in bringing their national OSH legislation up to the level of international standards in this area, particularly those of the ILO.

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<sup>149</sup> ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 55, p. 25/7.

<sup>150</sup> Regarding Paragraph 4(f) of the Recommendation on the ILO International OSH Hazard Alert System, it is important to note that this system ceased to be operational in 1996, mainly because of the slowness of the process and increased use of Internet-based networks for information exchange.

<sup>151</sup> See ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy [www.ilo.org/public/english/employment/multi/tripartite/declaration.htm](http://www.ilo.org/public/english/employment/multi/tripartite/declaration.htm).

(1) *Controlling the design, construction and layout of undertakings*

128. Article 11(a) provides that to give effect to the policy referred to in Article 4, the competent authority or authorities shall ensure progressively the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities. Developing a system for ensuring control over the premises of enterprises and technical equipment used at work can be a daunting task, particularly in countries where resources are limited. Priorities must be set.<sup>152</sup> Article 11(a) thus provides for flexibility, indicating that the required control systems should be established progressively and implemented “where the nature and degree of hazards so require”.<sup>153</sup>

129. In practice, a very large number of the countries surveyed indicated that effect is given to these provisions through regulations, authorizations related to the location of installations, types of processes, emergency response requirements and pre-operation inspections. In *Belarus*, all installations whose construction is completed are subject to an “acceptance into operation” procedure that includes specific verifications of operational reliability and safety. This pre-operation authorization procedure, overseen by a specific authority (usually the inspection services), is a commonly-used approach in the countries of the Commonwealth of Independent States (CIS). *Lesotho* reports that, although it has established a specialized OSH inspectorate to address these issues, there is no legal provision in this area. *Mexico* regulates these matters through approved technical standards (NOM).<sup>154</sup> Some countries give full effect to Article 11(a), through laws, regulations, approved technical standards and codes of practice (such as building and fire codes); this is the case, for example, in *New Zealand*, *Singapore* and *Turkey*.

130. However, the Committee of Experts considers that progress in implementing this function has been slow in some countries. A number of countries<sup>155</sup> did not provide information in this area or indicated that they did not regulate it. It is probable, however, that these countries, as all countries, have construction and building codes, as well as business registration and pre-operation authorization procedures, that at least address compliance with fire and other basic safety-related rules or with insurance requirements, and thus fulfil to some extent the requirements laid down in Article 11(a).

<sup>152</sup> ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, paras 88–104, pp. 22–25.

<sup>153</sup> During the preparatory work, the alleged “centralist” approach reflected in this provision was contested by the Government of the United States, which stated, inter alia, that “inherent in this Article is an implication that the competent authority’s capabilities extend to the design of technical equipment in the undertaking. ... The proposition that technical experts in an industry, who have devoted their lives to their craft, can be told by a multi-purpose so-called expert outside the industry how to design technology within that industry staggers the imagination”. See ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 30, p. 30/5.

<sup>154</sup> See examination of technical standards in relation to Article 12 of the Convention in Chapter II, section 7, subsection F(1).

<sup>155</sup> *Algeria*, *Argentina*, *Belize*, *Bosnia and Herzegovina*, *Cape Verde*, *Central African Republic*, *Congo*, *Eritrea*, *Ghana*, *Guatemala*, *India*, *Lesotho*, *Malawi*, *Mozambique*, *Pakistan*, *Panama*, *Paraguay*, *South Africa*, *Sri Lanka*, *Thailand* and *The former Yugoslav Republic of Macedonia*.



(2) *Controlling the use of substances and work processes*

131. Article 11(b) addresses the need to prohibit, limit or make subject to authorization or control certain substances and work processes.<sup>156</sup> This paragraph specifically provides that health hazards due to the simultaneous exposure to several substances or agents shall also be taken into consideration. Chemicals,<sup>157</sup> whether natural or synthetic, are an integral part of the life and economic fabric of all societies today. Their benefits are invaluable, but their significant potential for causing serious and sometimes irreversible damage both to humans and the environment calls for stringent regulation and control in order to achieve sound management. According to ILO estimates, nearly 440,000 people throughout the world died as a result of occupational exposure to hazardous substances in 2005.<sup>158</sup> Over 70 per cent of this total figure, or nearly 315,000 people, died of cancer. An important proportion of occupational cancer was due to exposure to asbestos. Today the scientific community is looking into the effects on workers' health of exposure to nanoparticles (see box). Precise and reliable data on the number of existing natural or synthetic chemical substances, the quantities used and produced and hazard assessment data is difficult to find, often outdated and contradictory. Thirty two million organic and inorganic, natural and synthetic substances have been identified and registered worldwide.<sup>159</sup> Out of the 110,000 synthetic chemicals that are produced in industrial quantities,<sup>160</sup> adequate hazard assessment data is available only for about 6,000 substances, and occupational exposure limits (OELs)<sup>161</sup> have been set for only 500–600 single hazardous chemicals.<sup>162</sup> Very little assessment data is available for mixtures of chemicals.

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<sup>156</sup> ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 138, p. 25/15. It is important to note that, although the Drafting Committee took the view that in the English text “work processes” included the use of machinery, the term also relates to work processes entailing exposure of workers to vapours or fumes of hazardous chemicals, such as heavy metals (lead, cadmium, chrome, etc.).

<sup>157</sup> For convenience, the term “chemicals” refers to single chemical substances, mixtures thereof or products.

<sup>158</sup> See P. Baichoo, B. Dardelin and J. Kruger: “ILO activities in the area of chemical safety”, in *African Newsletter on Occupational Health and Safety*, 2006, 16: 52–55.

<sup>159</sup> The Chemical Abstracts Service Registry (CAS Registry) is an independent body which provides a global service for the registration, chemical structure definition and name of all natural and synthetic chemical substances, at [www.cas.org/expertise/cascontent/index.html](http://www.cas.org/expertise/cascontent/index.html).

<sup>160</sup> I. Obadia: “Chemicals: Benefits and dangers”, in *World of Work*, No. 7, March 1994, (Geneva, ILO).

<sup>161</sup> The issue of OELs is further examined below, in the context of responsibilities of designers, manufacturers, etc., (Chapter II, section 7, subsection F(2)).

<sup>162</sup> American Conference of Governmental Industrial Hygienists (ACGIH): *Threshold Limit Values*, 2007 edition, at [www.acgih.org](http://www.acgih.org).

### Assessment of hazards from nanomaterials

The application of nanotechnologies to the production of nanomaterials and the potentially adverse human health effects and environmental pollution from exposure to particles smaller than 100 nanometers is a major emerging issue in safety and health. Engineered nanoparticles may have chemical, physical, and biological properties distinctly different from those of larger particles of similar chemical composition. Several governments and intergovernmental organizations such as the Organisation for Economic Co-operation and Development (OECD) \* have established task forces to evaluate the potential impact of nanomaterials on human health and the environment and the hazard classification, risk assessment and management, as well as the regulatory implications of the industrial production and use of nanomaterials. A review of the literature indicates that some instances of occupational and environmental exposure to a limited number of engineered nanomaterials have been reported, but much more data is needed to characterize the health and environmental effects associated with exposure to such materials.

\* Report of the OECD Workshop on the Safety of Manufactured Nanomaterials: Building Co-operation, Co-ordination and Communication, Washington, DC, United States, 7–9 December 2005, OECD Environment Directorate, Environment, Health and Safety Division, document No. ENV/JM/MONO(2006)19, available at [www.oecd.org/ehs/](http://www.oecd.org/ehs/).

132. These numbers give a sobering idea of the magnitude of the problem. Again, the generation of knowledge to assess the intrinsic hazardous properties of chemicals and the transposition of this knowledge into regulations to prohibit or generally control their use is sufficiently immense in terms of expertise, skills and economic resources to require extensive collaboration and cooperation at an international level. In practice, action in this area follows the traditional divide between technologically advanced countries and those with less capacity in terms of scientific research and development. The work of identifying and assessing the hazard of chemicals to humans as well as to the environment is carried out by a multitude of national, regional and international institutions, as well as private or university bodies involved in research in areas such as chemistry, toxicology and epidemiology.

### (3) *Occupational accidents and diseases: Record keeping, notification and statistics*

133. Recognizing the importance of collecting data on occupational accidents and diseases in the process of improving national OSH action, the Convention and the Recommendation also regulate and provide guidance regarding record keeping, notification and statistics regarding occupational accidents and diseases. According to Article 11(c), the competent authority or authorities are called upon to ensure the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned. It should be recalled that member States bound by Convention No. 81 are required to ensure that the labour inspectorate shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.<sup>163</sup> Guidance on the recording of occupational accidents and diseases is set out in Paragraph 15(2) of the Recommendation.

134. Only a few years after the adoption of the Convention and Recommendation there were calls for further reinforcement of the international labour standards on recording and notification of occupational accidents and diseases. These initially resulted in the adoption of the ILO code of practice *Recording and notification of occupational accidents and diseases* in 1995 (the code of practice).<sup>164</sup> The question of developing

<sup>163</sup> Art. 14 of Convention No. 81.

<sup>164</sup> [www.ilo.org/public/english/protection/safework/cops/english/download/e962083.pdf](http://www.ilo.org/public/english/protection/safework/cops/english/download/e962083.pdf) (English).

new standards in this area was eventually considered in 2002, together with a review of the list of occupational diseases, which led to the adoption of the Protocol and of the List of Occupational Diseases Recommendation, 2002 (No. 194).<sup>165</sup> However, regardless of whether or not a member State has ratified the Protocol, Article 11(c) requires that the competent authorities progressively shall ensure that data are collected and that annual statistics on occupational accidents and diseases are produced. It is important that the content and processing of the data collection be meaningfully linked to attaining and progressing a national policy which is effective in improving the safety and health of workers and the work environment. Data is not just to be collected simply for its own sake. It must be viewed as an essential tool in understanding and assessing the risks to health of workers in the work place. It is highly relevant to identifying the extent and nature of OSH problems in a country; assessing the factors needed for improvement of OSH; informing on the requirements for education and training; the resources which are required to improve OSH; it is also a means by which the impact of changes made in OSH in the country can be assessed over time. In short, accurate and relevant statistical gathering and its proper analysis, is a vital means of developing and progressing a coherent and effective national policy.

135. As a consequence of the information sent by member States pursuant to article 19 of the Constitution, the Committee is aware that many countries have difficulties in collecting reliable national data on occupational accidents and diseases. These difficulties include the following: (a) often there are two main sources of national data. *First*, reporting of accidents and diseases by employers to the authorities (usually to government, OSH departments or labour inspectorates). *Second*, compensation claims made by workers to employers through work injury insurance schemes (such as a social security schemes). By its nature, compensation schemes have a reasonably high rate of reporting, whereas reporting work incidents under OSH legislation often tends to be under-reported. The consequence is that the data are therefore not always accurate; (b) there are sometimes limitations in the coverage. A number of countries do not have comprehensive OSH legislation which covers all employed persons. If a country has only a Factories Act as the main OSH legislation, only a limited number of workers may be covered and this results in rather small national figures of accidents and injuries; (c) many countries have exclusions of branches of economic activities or of workers. Data collection systems usually do not cover the self-employed and often certain categories of workers such as public employees are also excluded; (d) there are some work injury insurance schemes where coverage under the scheme is limited to larger enterprises (e.g. five workers or more), particularly at the early stage of national scheme development; (e) while work injury insurance schemes tend to provide more accurate data, its analysis on OSH aspects might be limited if there is not enough collaboration between the insurance scheme and OSH authorities. This is because the insurance scheme's primary concern is to assess work-relatedness and pay compensation, rather than analysing the need for prevention; and (f) in the case of a federal State, national data collection tends to take longer. This is sometimes coupled with difficulties related to different systems between the provinces.

136. In addition to the above general difficulties, data collection for occupational diseases has further problems which include: (a) lack of trained physicians who can diagnose occupational diseases; (b) lack of a network of medical institutions which can carry out periodical medical examination of workers exposed to health hazards; (c) lack

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<sup>165</sup> The Protocol, along with national practice related to recording and notification of occupational accidents and diseases, is examined in Chapter III below.

of enforcement of periodical medical examinations of workers exposed to health hazards; and (d) there are occupational diseases which develop after a long latency period which makes it difficult to prove the link with exposure to occupational hazards. Therefore, there is often a lack of a recording system for information on workers exposed to health hazards which can cause health impairment after a long period.

137. These problems are challenges to the competent authorities when seeking to obtain and use accurate data. This has caused some countries to try to collect better data through special surveys, for example, workforce surveys, working environment surveys, research through death certificates, national household surveys, etc. At the same time, in setting out these difficulties, it becomes more apparent as to how essential the obtaining of accurate data is in order for a country to be able to develop a national policy and to assess its OSH status and progress as the Convention requires. The Committee is of the view that this is an area where technical assistance could be provided by the Office to assist with this important function. Articles 6 and 7 of the Protocol further regulate the gathering and compilation of statistics and provide a means for harmonizing the criteria for collecting statistics.<sup>166</sup>

#### (4) *Holding of inquiries*

138. As previously emphasized, a periodic review of the results of action taken is a critical step in verifying the level of coherence of the system. However, in a preventive context, it is equally important to engage in a process of identification of new areas of concern and to examine existing ones which need further improvement. Article 11(d) thus provides that inquiries shall be held, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious. This provision requires countries to carry out inquiries into areas beyond established knowledge as to cause-and-effect relationships between the working environment and occupational accidents and diseases, while limiting this requirement to serious situations. It was clarified in the course of the preparatory work that such inquiries were intended to include not only inquiries into events related to individuals, but also inquiries with a broader scope, such as those carried out following industrial disasters and incidents or accidents which seriously threatened the lives and health of large numbers of workers.<sup>167</sup>

139. Most member States that have ratified the Convention appear to apply this provision, although available information in this respect is somewhat limited. In *Slovenia*, for example, national legislation reflects the wording of Article 11(d), and *Portugal* reports that the holding of inquiries on conditions of work is carried out in order to achieve the objectives of its national OSH policy. In *Turkey*, the Insurance Institution may (if necessary) hold an inquiry into incidents to decide whether they can be considered to be work accidents, while an inquiry is always required after a notification of an occupational disease. In *Belarus*, *El Salvador* and *Peru*, the employer is required to carry out the inquiries. Other countries also reflect this provision in practice, for example *Guatemala* and the *United Kingdom*. In addition, in *Japan* investigations into the causes of industrial accidents are performed by the Research Institute under the auspices of the Minister of Health, Labour and Welfare. However, in

<sup>166</sup> This aspect together with further details as to national practice on statistical data is discussed in Chapter III, section 6, below.

<sup>167</sup> Of the type referred to in Article 12, paragraph 1(c), of the Labour Inspection Convention, 1947 (No. 81); see ILC, 67th Session, 1981, Report VI(2), p. 27, and ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 60, p. 25/8.

certain serious cases the Minister may commission the National Institute of Occupational Safety and Health to carry out this investigation. Several countries seem to refer to the more general type of requirement to hold individual inquiries as a follow-up to individual occupational accidents and diseases. In Suriname this requirement is limited to situations in which it is deemed necessary.

(5) *Publication of measures taken to implement the national policy and related data*

140. Complementing Article 11(c) and (d) above, subparagraph (e) further requires the annual publication of information on measures taken in pursuance of the policy referred to in Article 4 and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work. As with the other provisions related to the dissemination of information, the practical application of this provision has been transformed through the widespread practice of publication of information through the Internet.<sup>168</sup>

(6) *Knowledge and risk assessment*

141. The continuous need for rapid adaptation to technological and scientific progress and to an ever-changing world of work requires the establishment of specialized bodies in OSH areas such as risk assessment, medical surveillance, mechanical engineering, acoustics, materials analysis, equipment testing, certification, technical standard setting and information dissemination. Their role is essential, as they generate the knowledge without which no policies, regulations or preventive and protective measures could be developed and implemented. The requirement laid down in Article 11(f) to introduce or extend risk assessment systems in relation to chemical, physical and biological agents was added during the second Conference discussion on the list of functions to be introduced progressively.<sup>169</sup> In response to concerns that it is not only developing countries that may have limited resources to carry out the required risk assessments, the phrase “taking into account national conditions” was included in the provision.

142. In many countries, specialized institutions – which may be government, university or private bodies – carry out research on the toxicity of substances in order to set occupational exposure limits, the resistance of materials or the physics of noise in order to develop better collective or personal protection systems, or devices to detect airborne hazardous substances, etc. The reliability of this knowledge is generally ensured through international or regional cooperation and peer-review mechanisms. Most of the specialized national bodies contribute to the work of regional and international bodies in developing international peer-reviewed assessments, technical standards and methodologies related to OSH. National specialized institutions work closely with these bodies and fund research projects and studies, as well as developing and publishing risk assessments and methodology. Some are renowned worldwide for the quality of their work in this area, such as the National Research and Safety Institute (INRS) and the French Agency for Environmental and Occupational Health Safety (AFSSET)<sup>170</sup> in France, or the National Institute for Occupational Safety and Health (NIOSH) and the Agency for Toxic Substances and Disease Registry (ATSDR)<sup>171</sup> in the United States. As developing hazard and risk assessment data, particularly regarding chemicals, is very

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<sup>168</sup> See also section 7, subsection C *supra* and subsection F *infra*.

<sup>169</sup> ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 62, p. 25/8.

<sup>170</sup> [www.inrs.fr](http://www.inrs.fr) and [www.afsset.fr](http://www.afsset.fr).

<sup>171</sup> [www.atsdr.cdc.gov](http://www.atsdr.cdc.gov).

resource intensive, countries pool their efforts through the relevant intergovernmental bodies. Among other related tasks, the OECD carries out work on chemical and biological hazard and risk assessment and testing methodology. Expert panels established by the World Health Organization (WHO) produce peer-reviewed risk assessments and data sheets on chemicals and pesticides, in particular, in the context of the joint ILO–WHO–UNEP International Programme on Chemical Safety (IPCS).<sup>172</sup> The United Nations Environment Programme (UNEP) is also involved in studying the impact of hazardous chemicals and wastes on the environment and human health.

143. A number of non-governmental bodies and associations carry out technical work in many areas related to OSH at the national level. Generally, the national authorities may fund these bodies to carry out the research and studies they need to respond to specific issues such as the determination of exposure limits for new hazards, or to develop or update the national list of compensable occupational diseases. The American Conference of Governmental Industrial Hygienists (ACGIH), the French Standards Association (AFNOR), the American Society for Testing and Materials (now ASTM International), the Canadian Standards Association (CSA) and BSI British Standards in the United Kingdom are but a few examples of the numerous technical bodies whose work is essential for the implementation of OSH measures. Most large multinational enterprises have their own research facilities for testing their products in order to meet government safety requirements before they are put on the market.<sup>173</sup>

144. Regarding the transformation of the knowledge acquired by these institutions into practical information that can be disseminated at all relevant levels, most countries have established mechanisms to facilitate access to OSH information, using a variety of means, ranging from telephone query services to Internet-based portals providing access to available national and international information on all aspects of OSH.<sup>174</sup>

#### E. Protection of workers removed from situations presenting imminent and serious danger

145. The Convention contains two provisions dealing with circumstances where workers may find themselves in situations of imminent and serious danger at work. Article 13 requires, in accordance with national conditions and practice, the protection of workers against “undue consequences” for removing themselves from a work situation if they have “reasonable justification to believe” that it presents “an imminent and serious danger” to their life or health. Article 19(f) complements this provision.<sup>175</sup> It prescribes that the arrangements that should be in place at the workplace should include arrangements according to which workers must report “forthwith” to their “immediate supervisor” any such situations representing imminent and serious dangers. Article 19(f) also provides that the employer cannot require workers to return to a work situation where there is a continuing imminent danger until the employer has taken remedial action, if necessary. Articles 13 and 19(f) read with Article 5(e),<sup>176</sup> mean that no disciplinary action can be taken against workers who remove themselves from work if the following conditions are met: (a) the workers concerned have a reasonable

<sup>172</sup> [www.who.int/ipcs/en/](http://www.who.int/ipcs/en/).

<sup>173</sup> See also discussion regarding the requirements related to designers, manufacturers and importers, etc., in Chapter II, section 7, subsection F(2), below.

<sup>174</sup> See also Chapter II, section 7, subsection C, above.

<sup>175</sup> See Chapter II, section 8, subsection C(5), below.

<sup>176</sup> See Chapter II, section 4, subsection E, above.

justification to believe that there is an imminent and serious danger to their life or health; (b) they comply with the workplace arrangements contemplated in Article 19(f); and (c) the actions by the workers have been properly taken in conformity with the national policy pursuant to Article 4. These three articles together provide considerable flexibility in the manner in which they are to be applied and represent a careful balance between employer's interests in the proper management of the enterprise, on the one hand, and the protection of the workers' life and health, on the other.

146. As noted previously, the question whether workers should have the right to decide to remove themselves from a situation presenting an imminent and serious danger or whether their removal should depend on a decision taken by the employer was one of the most hotly debated issues during the elaboration of the Convention. The final solution adopted represented an "overall compromise" with the clear intention not to accept the idea that the workers could cease work only with the consent of their employer and to provide that this question should be regulated at the national level by including it in Article 13. As this background indicates, and as underscored by this Committee,<sup>177</sup> Articles 13 and 19(f) complement each other: compliance with one is not an alternative to compliance with the other. These two Articles should therefore be considered together.<sup>178</sup>

147. In practice, a majority of the member States who have ratified the Convention give effect both to Articles 13 and 19(f),<sup>179</sup> although the Committee of Experts, on several occasions, has had cause to seek further clarifications on how these provisions are applied in practice. Progress has been noted in a number of countries,<sup>180</sup> including among the Members of the EU and Directive 89/391/EEC contains provisions very similar to those of the Convention in this respect.<sup>181</sup> Effect is also given to Articles 13 and 19(f) in a significant number of other countries by legislation<sup>182</sup> and in some cases

<sup>177</sup> See, inter alia, direct requests addressed to *Spain* in 1990, 1992, and 1994, and to *Portugal* in 1990 and 1994.

<sup>178</sup> It should be noted, however, that the available information mainly relates to the application of Article 13.

<sup>179</sup> *Australia, Belarus, China (Macau SAR), Croatia, Cuba, Cyprus, Czech Republic, Denmark, Finland, Hungary, Iceland, Kazakhstan, Latvia, Luxembourg, The former Yugoslav Republic of Macedonia, Mexico, Republic of Moldova, Netherlands, Norway, Portugal, Russian Federation, Slovakia, Slovenia, Sweden* and the *Bolivarian Republic of Venezuela*.

<sup>180</sup> For example, *Denmark*: see direct request 2007, in which the Committee of Experts noted "with interest the amendment to section 7(a) of the Work Environment Act (WEA) ensuring application of Article 13 of the Convention".

<sup>181</sup> Section 8(3)–(5) of European Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

<sup>182</sup> *Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Burkina Faso, Canada, Croatia, Cuba, Cyprus, Denmark, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, Latvia, Lithuania, Lebanon, Luxembourg, The former Yugoslav Republic of Macedonia, Mexico, Republic of Moldova, Mauritius, Netherlands, New Zealand, Norway, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Suriname, Sweden, Trinidad and Tobago, Ukraine, United Kingdom and the Bolivarian Republic of Venezuela*. More partial effect is given to these provisions in some other countries, for example, *Brazil, China, China (Macau SAR), Czech Republic, Guatemala, Mali, Pakistan* (which reports that this right is provided as an in-house policy in various companies), *Tunisia, United States and Viet Nam*. According to the Confederation of Autonomous Trade Unions of *Serbia*, the move from the management of OSH through the collective bargaining agreements to a regulatory system (adoption of a new Labour Code (2) and a new OSH law (1)) seems to have left a number of areas uncovered.

by case law.<sup>183</sup> Sri Lanka reported that these provisions would be reflected in new draft OSH legislation.<sup>184</sup>

148. National practice reflects different nuances delineating the right of removal. While the decision to exercise the right rests with the worker, the exercise is not unconditional, and the protection offered according to Article 13 is not protection from all consequences, but from “undue consequences”. The preparatory work indicates that the word “undue” was understood to mean “unfair” or “unreasonable”, and that “it was not a question of an absolute right, and it was for the courts to decide what was undue or not”.<sup>185</sup> According to available information, acting in “good faith” is a requirement in some countries (such as Canada, Mauritius, *Latvia* and the United States), while others report that workers who have removed themselves may be called upon to defend themselves against a claim for “gross negligence” (for example Italy, *Latvia* and Bulgaria). In *China* workers may remove themselves only after having taken all possible emergency measures. In *Hungary*, however, employees are entitled to refuse work which would directly and seriously threaten their life, health and physical integrity and, should compliance with the instructions of the employer threaten others directly and seriously, performance should be refused. In other countries such as *Cuba* workers are explicitly required to agree to take part in an investigation as to the circumstances. In the *Netherlands* the “imminence” of the danger is regulated in the sense that the entitlement to stop work can be exercised only when the threat is so imminent that a supervisor cannot arrive in time.

149. The nature of the work at issue may also have an influence on the exercise of the right to cease work. In *New Zealand* (as in Canada and Poland) this right cannot be exercised if the danger is a normal condition of employment (as, for example, for firefighters); in such cases, workers may only refuse such work if the understood risk of serious harm has materially increased in a given situation, that is, the risk of harm has become significantly more likely.

150. In other countries the protection offered is reinforced. In the *Bolivarian Republic of Venezuela*, to prevent or attempt to prevent a worker from removing himself from a dangerous situation is considered as a very serious violation which may lead to penal or civil consequences and heavy fines proportional to the number of workers concerned. Peru has adopted a similar approach. In other cases, it is specifically provided that workers who have removed themselves should be offered alternative work and not lose their salary.<sup>186</sup> In *New Zealand*, national legislation provides for the collective right of workers to participate in a strike if they believe it is justified on the grounds of safety or health.<sup>187</sup>

<sup>183</sup> For example, in *Mexico* (see RCE, 2000) and in the United States. The antidiscrimination provisions of the US Mine Act (2), 30 USC 815(c), have been interpreted by the courts to protect miners who refuse to perform work they reasonably and in good faith believe is unsafe or unhealthy, as long as the miners communicate their concern to the mine operator and give the operator an opportunity to address that concern. *Cooley v. Ottawa Silica Co.*, 6 FMSHRC 516, 519-21, *aff'd*, 780 F.2d 1022 (Sixth Cir. 1985); *Gilbert v. FMSHRC*, 866 F.2d 1433, 1439 (DC Cir. 1989).

<sup>184</sup> See Article 7(2) of the proposed Act on Safety, Health and Welfare at Work, prepared with the assistance of the ILO. It should be noted, however, that the Employers' Federation of Ceylon considered this provision of the Convention as an obstacle to ratification.

<sup>185</sup> ILC, 67th Session, 1981, *Provisional Record* No. 25, para. 92, p. 25/11.

<sup>186</sup> *Belarus*, *Mali* and *Republic of Moldova*.

<sup>187</sup> *New Zealand*: (5), section 84.



151. Articles 13 and 19(f) do not appear to be reflected in law or practice in a significant number of countries where the right of workers to remove themselves, while not entailing undue consequences, is conditional on a decision by a safety officer or another person in a supervisory position.<sup>188</sup> In Cameroon, for example, the Government reports that workers who remove themselves from a dangerous situation without first informing their employer or the safety and health committee are considered to have breached their employment contracts. Lastly, as regards a number of other countries,<sup>189</sup> further information is needed regarding the legal situation, or the Committee of Experts has not yet received the first reports on the application of the Convention in practice.<sup>190</sup>

152. It should be added that in some countries persons entrusted with OSH responsibilities in the undertaking, including trade union representatives, also have the right to issue instructions for work to be stopped. This is the case, for example, in many of the Commonwealth of Independent States (CIS) countries, as well as in *Australia* and *Israel*. In a smaller group of countries,<sup>191</sup> there appears to be no provision for those rights.

#### F. Responsibilities of designers, manufacturers, importers, etc.

153. Article 12 articulates an essential element of the principle of prevention that is at the heart of the two instruments, providing that measures shall be taken, in accordance with national law and practice, with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use: (a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly; (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided; (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

154. Article 12(a) requires that measures are taken, in accordance with national law and practice, to ensure that those who design, manufacture, import, provide or transfer machinery, equipment or substance for occupational use, “*satisfy themselves* that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly”. The Committee considers that, while this provision cannot be progressively implemented, it is nonetheless intrinsically flexible. In the first place, national law and practice is to determine the type of measures to be taken. Secondly, the designers, manufacturers, etc., are to “*satisfy themselves so far as is reasonably practicable*”. In the Committee’s view, the obligation to “*satisfy themselves*” does not imply total autonomy. This obligation requires that the

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<sup>188</sup> *Albania, Algeria, Argentina, Belize, Cameroon, Central African Republic, Congo, Costa Rica, Egypt, Ethiopia, Grenada, Guatemala, Israel, Japan, Lesotho, Malawi, Malaysia, Morocco, Mozambique, Namibia, Nicaragua, Philippines, Qatar, Saudi Arabia, Seychelles, Singapore, South Africa, Sri Lanka, Suriname, Switzerland, Syrian Arab Republic, Thailand, Turkey and Uruguay.*

<sup>189</sup> *Bahrain, Cape Verde, El Salvador, Indonesia, Jordan, Madagascar, Mongolia, Myanmar, Nigeria, Panama, Paraguay, United Republic of Tanzania and Zimbabwe.*

<sup>190</sup> *Antigua and Barbuda, Fiji, Republic of Korea, Montenegro and Sao Tome and Principe.*

<sup>191</sup> *Albania, Algeria, Argentina, Belize, Grenada, Honduras, Jordan, Lebanon, Myanmar, Panama, Paraguay, Sri Lanka and Zimbabwe.*

necessary procedure to “*satisfy themselves*” has been carried out and done in good faith in such a way as to ensure, so far as is reasonably practicable, that the objective is adequately achieved, i.e. that the machinery, equipment, etc., does not entail danger for safety and health of those using it.

155. The exponential growth of trade and advances in technology and knowledge has resulted in major efforts to regulate, standardize and harmonize as many of the material elements of work as possible to ensure coherence and reliability of production systems, respond to global pressures for harmonization and address OSH concerns. In view of the profusion of machines, installations, processes and equipment, as well as chemical products, manufactured, used and disposed of, the regulation and control of these areas, giving effect to the provisions in Article 12 represent a dauntingly complex and costly challenge. No less daunting is the work of developing adequate instructions and information on the correct safe use of these elements of work, preventive and protective measures, and known hazards and risks.

156. The magnitude of the efforts and resources needed to address these issues has meant that the burden is shared between government and industry, through two “cross-pollinating” and complementary processes, namely regulations and technical standards.<sup>192</sup> Governments define general regulatory principles and requirements, such as those related to the scope of responsibilities regarding safety and health, the provision of instructions and information, and pre-market testing and certification procedures, as well as rules related to export or import. On the other hand, industry has over the years built up a vast compendium of technical standards and methodologies through complex knowledge development and management processes which can be considered as the mechanisms whereby designers, manufacturers and providers give effect to the provisions of Article 12(a) and, in part, to those on keeping abreast of scientific and technical knowledge (Article 12(c)). The relationship between government regulations and technical standards varies according to the status of the standard. Compliance with recognized technical standards, particularly those developed by international bodies, may be made mandatory by some countries. They may also in many cases serve as a benchmark for certification of machines and equipment, particularly in relation to safety and health. The approach of the EU illustrates the current trend of shifting the burden of proof of compliance with safety and health regulations on designers, manufacturers or any other business entity responsible for marketing a product, through a process where conformity is presumed if the product has been certified before being placed on the market.

(1) *Ensuring that machinery, equipment or substances do not entail dangers*

157. From the age-old definition of measurement units for time, dimensions and weight to the vast compendium of technical standards that reflects today’s scientific and technological advances in various areas of human activity, the application of the results of technological progress has always been governed by an inherent process of standardization. Although they require a high level of expertise and resources, technical standards are essential to industry and trade, and for a coherent implementation of technology. They are usually developed through technical committees composed of recognized government and industry experts in the area requiring codification and administered by various specialized bodies. The process addresses practically all the aspects of OSH, from machine and equipment safety and ergonomics to methods for the

<sup>192</sup> See also under Chapter II, section 7, subsection D(2), below.

assessment of hazardous materials and the development of exposure limits for hazardous workplace agents. Because they are elaborated and regularly updated through a consensus and peer review process, technical standards represent the state of the art and most recent knowledge on the subject covered.

158. In general, national practice regarding the requirements of Article 12 again reflects a clear divide between technologically advanced countries and others with less developed capacities. Yet, most of them regulate this area, either fully or partially. It should be noted that although little reference is made in the replies to the survey to the use of technical standards, the information gathered from the available literature indicates that most countries have at least established a national bureau of standards to administer their development or implementation.

159. Countries which may be categorized as mainly importers and users of technology<sup>193</sup> nonetheless include in their legislation provisions covering the responsibilities of designers, manufacturers and suppliers of machines and equipments relevant to safety and the availability of adequate information. Some of them report that they do not have legislation on this subject.<sup>194</sup> Some put the onus on the employer<sup>195</sup> to ensure that these material elements of work are safe and maintained properly and that workers are provided with adequate instructions and training. Jordan and Lebanon indicated that they apply import and use controls to verify that machines and equipment entering the country comply with national workplace safety requirements, where they exist, or with those of the exporting country, as the case may be. In Cameroon, all materials, machines and installations must comply with national or international homologation and safety standards and must be accompanied at the time of purchase by information concerning their technical specifications, procedures for use and maintenance, the safety devices required to be in place, and possible hazards and risks to workers. For a small number of countries,<sup>196</sup> the information provided or available is insufficient to assess their regulatory actions in this area.

160. Through their legislation and technical standard setting or control activities, many countries<sup>197</sup> give effect to the provisions of Article 12 concerning the obligations related to the safety of machines and equipment, including adequate information. In technologically advanced countries, experts from governmental agencies contribute to the development of national, regional and international standards. FUNDACENTRO in *Brazil*, the Institute of Occupational Health (FIOH) in *Finland*, the INRS and AFSSET in France, the National Institute of Safety and Health at Work (INSHT) in *Spain*, the HSE in the United Kingdom, the National Bureau of Standards in *Mexico* and NIOSH in the United States are only a few examples of such national agencies. The EU Member States and other countries such as *Turkey* and Switzerland apply the relevant EU

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<sup>193</sup> Including, for example, Bahrain, *Bosnia and Herzegovina*, Cyprus, Greece, *Lesotho*, Mauritius, *Republic of Moldova*, Romania, Sri Lanka, Suriname, United Republic of Tanzania, Thailand, Trinidad and Tobago, Ukraine and Zimbabwe.

<sup>194</sup> Egypt, *El Salvador*, Ghana, Grenada, Guatemala, Honduras, Madagascar, Mali, Mozambique, Pakistan, Paraguay and Uruguay.

<sup>195</sup> *Albania*, Burkina Faso, Egypt, Guatemala, Indonesia, Mali, Morocco, Mozambique, Qatar, Senegal, Syrian Arab Republic and Tunisia.

<sup>196</sup> *Belize*, *Cape Verde*, Panama and *The former Yugoslav Republic of Macedonia*.

<sup>197</sup> For example, *Australia*, Austria, *Belarus*, Belgium, Canada, *China*, *Cuba*, *Czech Republic*, Hungary, Ireland, Israel, Italy, Japan, *Mexico*, *Netherlands*, *New Zealand*, Poland, *Portugal*, Singapore, *Slovenia*, *South Africa*, *Spain*, Switzerland, *Turkey*, Ukraine, United Kingdom, United States and the *Bolivarian Republic of Venezuela*.

Directives<sup>198</sup> and the technical standards of the European Committee for Standardization (CEN).<sup>199</sup>

161. In *Australia*, the United Kingdom and the United States, industry must demonstrate that it complies with the safety requirements laid down in regulations and approved technical standards and codes of practice for machinery and equipment. In the United States, the regulatory requirements concerning machines and equipment are targeted at the employer, rather than the designer or the supplier, but government agencies and technical standard-setting bodies such as the American National Standards Institute (ANSI) work closely on the development of OSH-related technical standards, which often serve as a model in other countries. In *Australia*, national standards and codes of practice adopted by the ASCC are of an advisory nature, except where a law, or an instrument established under such a law, makes them mandatory. This is also the case in the United Kingdom where the HSE may develop its own standards or approve the use of other national non-binding or international technical standards.

162. Many intergovernmental organizations produce technical standards, codes of practice and methodology related to various aspects of OSH for use by countries as references for national regulation and guidance. Some examples of these are the ILO, the International Maritime Organization (IMO), OECD, UNEP, WHO, the Food and Agriculture Organization of the United Nations (FAO) and the International Atomic Energy Agency (IAEA). The International Organization for Standardization (ISO),<sup>200</sup> the International Electrotechnical Commission (IEC)<sup>201</sup> and the International Ergonomics Association (IEA)<sup>202</sup> are examples of non-governmental international bodies involved, in particular, in the development of safety-related technical standards through the participation of government and industry experts. Technical standards produced by some professional associations and other private bodies, such as the ANSI and ACGIH in the United States, the BSI in the United Kingdom, AFNOR in France and the German Institute for Standardization (DIN) in Germany are widely recognized and used internationally. These are only a few examples of the hundreds of standard-setting bodies worldwide at all levels and in all areas of economic activity. In general, the partnership between government agencies and industry has resulted in the development of relatively complex processes and knowledge-sharing networks to ensure coherent development and organization of this knowledge so that it can be applied in order to improve the safety and health characteristics of the material elements of work.

(2) *Make information and instructions available*

163. As regards the requirement in Article 12(b) of the Convention, the national, regional and international agencies and private bodies described above are responsible for developing most of the information concerning the correct installation and use of machinery and equipment and related hazards, the correct use of substances, and the dangerous properties of chemicals and physical and biological agents or products, as

<sup>198</sup> EU Directives 89/655/EEC, 95/63/EC, 98/37/EC and 2001/45/EC.

<sup>199</sup> CEN has published as of 2008 a total of more than 13,000 technical standards, at [www.cen.eu](http://www.cen.eu).

<sup>200</sup> ISO areas of OSH-related standardization include acoustics, safety colours and pictograms, protective clothing and equipment, ergonomics, mechanical equipment, mechanical vibration and shock, quality and environmental control. ISO has published about 17,000 standards, of which around 500 are directly related to safety issues.

<sup>201</sup> There are 5,123 IEC standards to date, some of them directly related to electrical safety, but also including noise measurement technology, at [www.iec.ch](http://www.iec.ch).

<sup>202</sup> [www.iea.cc](http://www.iea.cc).

well as instructions on how known hazards are to be avoided. Again, the resources for developing such information differ considerably between countries with advanced technological and scientific capacities and those where such capacities are more limited or lacking. As a result, many countries rely on information produced and made available by industrialized countries.

164. As indicated above, information related to the use and safety of machinery and equipment is developed and provided by industry and by the same agencies and bodies involved in the development of technical standards. Measurement methodologies and occupational exposure limits have been developed for occupational noise by specialized national agencies such as NIOSH in the United States and the HSE in the United Kingdom. EU Member States give effect to the requirements of the Directive on environmental noise.<sup>203</sup> Many countries have based their regulations regarding ionizing radiation on the International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources<sup>204</sup> developed and updated under the joint auspices of the FAO, IAEA, ILO, the OECD Nuclear Energy Agency (OECD-NEA) the Pan American Health Organization (PAHO) and WHO. The ILO Radiation Protection Convention, 1960 (No. 115), which applies to all activities involving exposure of workers to ionizing radiation in the course of their work, has been ratified by 48 countries so far.<sup>205</sup>

165. The development and provision of information on the correct use of chemical substances and products and on their hazards, are a daunting task, which also requires cooperation between governments and industry to assess the hazardous properties of chemicals and develop the relevant safety and health regulations and information. A large number of countries regulate the supply of chemicals both for workplace and for consumer use. To date 17 States<sup>206</sup> have ratified the ILO Chemicals Convention, 1990 (No. 170). Convention No. 170 provides for a comprehensive national framework for the sound management of chemicals at work, and particularly for chemical hazard communication designed to ensure the flow of information on hazards and related preventive and protective measures from manufacturers and importer to the users. This includes requirements for the classification and labelling of chemicals and the provision of chemical safety data sheets.

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<sup>203</sup> Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise). This Directive replaces the 1986 Directive.

<sup>204</sup> *International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources*, IAEA Safety Series No. 115 (Vienna, 1996); and FAO/IAEA/ILO/OECD-NEA/PAHO/WHO: *Safety Fundamentals: Radiation Protection and the Safety of Radiation Sources*, IAEA Safety Series No. 120 (Vienna, 1996).

<sup>205</sup> [www.ilo.org/ilolex/english/newratframeE.htm](http://www.ilo.org/ilolex/english/newratframeE.htm).

<sup>206</sup> loc. cit.

### UN Globally Harmonized System of Classification and Labelling of Chemicals

The ILO initiated this project as a follow-up to the Chemicals Convention, 1990 (No. 170), and played an important role in steering its development and adoption as a UN technical standard, as well as ensuring the full participation of organizations of employers and workers. The GHS covers all chemicals, including pure substances and mixtures, except pharmaceutical products, and defines the chemical hazard communication requirements (labelling and data sheets) of the workplace, the transport of dangerous goods, consumers, and of the environment. It is thus a truly harmonized universal technical standard that will have a far-reaching impact on all national and international chemical safety regulations and technical standards. A large number of countries have made a commitment to a progressive implementation of the GHS.\* Examples of the new GHS pictograms for a number of general hazard categories are presented below.



Target organ toxicity



Explosive



Flammable



Acute toxicity

\* For detailed information on the GHS and the status of its implementation, see [www.unece.org/trans/danger/publi/ghs/implementation\\_e.html](http://www.unece.org/trans/danger/publi/ghs/implementation_e.html).

166. Most of the industrialized countries establish and maintain lists of OELs<sup>207</sup> that regulate hazardous substance concentration levels to which workers may be exposed, via inhalation, ingestion or skin contact, for specified time periods, without risk to their health. These limits can be indicative or binding. One list that is outstanding in terms of coverage and strong scientific peer review is the indicative “List of Threshold Limit Values (TLVs)” of the ACGIH,<sup>208</sup> which is often used as guidance for the setting of national OELs in many developing countries. Because of the complexity of regulatory processes, binding OELs are very difficult to update in the light of scientific progress. As a result, most of the EU exposure limits are indicative values (IOELVs) adopted through Commission Directives.<sup>209</sup> In the United States,<sup>210</sup> the existence of a binding Permissible Exposure Limit (PEL) or an ACGIH TLV for a chemical establishes that the chemical is hazardous and must thus be regulated under OSHA’s Hazard Communication Standard.<sup>211</sup>

167. Although all industrialized countries have infrastructures specifically for chemical hazard evaluation and regulation, a large part of the chemical hazard and risk assessment work is carried out by national experts under the auspices of intergovernmental bodies to ensure wider peer review of the assessment data and a sharing of efforts and costs. The results of this work are usually available on the Internet sites of these bodies. The OECD

<sup>207</sup> The ILO–CIS provides access to the lists of OELs for 29 countries, at [www.ilo.org/public/english/protection/safework/cis/products/explim.htm](http://www.ilo.org/public/english/protection/safework/cis/products/explim.htm).

<sup>208</sup> ACGIH: List of Threshold Limit Values, at [www.acgih.org/home.htm](http://www.acgih.org/home.htm).

<sup>209</sup> Exposure limits in the European Union, at [ec.europa.eu/employment\\_social/health\\_safety/occupational\\_en.htm](http://ec.europa.eu/employment_social/health_safety/occupational_en.htm).

<sup>210</sup> [www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=TESTIMONIES&p\\_id=371](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=TESTIMONIES&p_id=371).

<sup>211</sup> 29 CFR Sec. 1910.1200.

and a number of UN specialized agencies and programmes, such as the IPCS, the UNEP's Chemicals Programme, the UN Committee of Experts on the Transport of Dangerous Goods (CETDG) and the FAO, are also very active in the development and provision of risk assessment information. The chemical industry also plays a significant role in this regard, as illustrated by the Global Initiative on High Production Volume (HPV) chemicals<sup>212</sup> of the International Council of Chemical Associations (ICCA). The IPCS produces internationally peer-reviewed International Chemical Safety Cards (ICSCs),<sup>213</sup> which are provided on the Internet free of charge in 18 languages.

(3) *Undertake studies and research*

168. As OSH involves a multitude of disciplines, research in this area is distributed over a very broad range of technical and scientific fields. Article 12(c) requires designers, manufacturers, importers and providers to undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article. As pointed out above, research and development are an inherent element in the process of bringing technological developments to the stages of manufacturing and marketing. Again, a large part of the research effort is carried out in the technologically advanced countries by government agencies, universities and, most of all, industry. Information on the geographical distribution of patents provided by the World Intellectual Property Organization (WIPO)<sup>214</sup> is a good general indicator of the levels of research activities at the national level, including those related to the various areas of OSH.

## 8. Implementation at the workplace

169. A substantial part of the provisions of both the Convention and the Recommendation deal with the transposition of the national policy into action at the enterprise level and, in particular the duties and responsibilities of employers and the rights and duties of workers, as well as the cooperation and collaboration required to ensure a safe and healthy working environment. The employer is required, in particular, to implement adequate preventive and protective measures at worksites, such as construction sites, where two or more employers are involved, to take measures to respond to emergency situations, to provide OSH services and advice, and to ensure that OSH measures do not entail any cost for the employees.

### A. Employers' duties and responsibilities

170. In their opening remarks during the first discussion at the ILC in 1980, the Employer members agreed to bear the primary responsibility because health and safety policy was an integral part of production arrangements and methods. While Article 16 defines the general scope of the duties and responsibilities of employers, the practical means which might be used to give effect thereto are provided for in Paragraphs 10, 14 and 15 of the Recommendation. The second part of Article 16 on personal protective equipment is worded in such a way as to convey the OSH principle that this equipment must be used either as a last resort in exceptional situations or to further enhance already existing preventive and protective measures. Paragraph 10 of the Recommendation is

<sup>212</sup> [www.cefic.org/activities/hse/mgt/hpv/hpvinit.htm](http://www.cefic.org/activities/hse/mgt/hpv/hpvinit.htm).

<sup>213</sup> [www.ilo.org/public/english/protection/safework/cis/products/icsc/index.htm](http://www.ilo.org/public/english/protection/safework/cis/products/icsc/index.htm). The ICSC project is managed by the ILO on behalf of the IPCS.

<sup>214</sup> WIPO: *World Patent Report: A Statistical Review*, at [www.wipo.int/ipstats/en/statistics/patents/index.html](http://www.wipo.int/ipstats/en/statistics/patents/index.html).

aimed at addressing difficulties in the implementation of certain requirements, particularly in developing countries. The foresight shown by drafters of these instruments 28 years ago is reflected in the fact that this part of the Recommendation defines in practice the essential principles of the systems approach to the management of OSH that now is expressly promoted through Convention No. 187.

(1) *General duties and responsibilities*

171. One conclusion of the analysis of the available information in practice is that several States that have ratified the Convention<sup>215</sup> or other countries which responded to the survey<sup>216</sup> not only cover to a very large extent the provisions of Article 16, but also to a very significant part, those in Paragraphs 10, 14 and 15 of the Recommendation through specific regulations, often supplemented by technical standards<sup>217</sup> or codes of practice.

172. In a number of other countries,<sup>218</sup> particularly developing countries, the legislation largely gives effect to Article 16, but regulates the relevant provisions of the Recommendation to a lesser extent.<sup>219</sup> At the same time, the legislation of some of these countries lays down innovative, modern and forward-looking duties and responsibilities for employers. In Congo, the employer is required to adopt an occupational risk prevention policy that is integrated in the business economic and financial policy. In Cameroon, the employer must register all the periodic maintenance and technical and safety verifications of workplace machines, processes and equipment. In Ghana, the employer must provide workers with the necessary information, instructions, training and supervision, which takes into account “age, literacy level and other circumstances of the workers”. In the Philippines, the employer has to provide a “comfortable and healthy environment”. In Madagascar, the Labour Code refers directly to HIV/AIDS in relation to the employer’s responsibility to provide workers with adequate and appropriate collective and personal protective equipment and clothing.<sup>220</sup> Recent legislation in Mozambique provides that employers may establish policies on prevention and combating of HIV/AIDS and other endemic diseases, subject to respect for the principle of the worker’s consent to AIDS testing.<sup>221</sup> In Argentina, employers are required to contract occupational risk insurance covering all of their employees. In Costa Rica and **El Salvador**, employers must also elaborate and implement OSH programmes focused on prevention.

173. In fact, all of the countries surveyed, including those for which little information is available on the effect given to the provisions of both the Convention and the

<sup>215</sup> *Algeria, Australia, Belarus, Brazil, Cape Verde, China, Cuba, Cyprus, Czech Republic, Lesotho, Mexico, New Zealand, Portugal, Slovenia, Spain, Turkey, Uruguay and the Bolivarian Republic of Venezuela.*

<sup>216</sup> *Austria, Belgium, Burkina Faso, Canada, France, Germany, Greece, Mauritius, Poland, Singapore, Trinidad and Tobago and the United Kingdom.*

<sup>217</sup> See also Chapter II, section 7, subsection F.

<sup>218</sup> *Albania: (2); Central African Republic; Congo: (1); Ghana: (1); Guatemala: (1), (2); Egypt: (1); El Salvador: (1), (2), (3); Grenada: (1); Indonesia: (1); Japan: (1); Jordan: (1); Lebanon: (1), (3); Madagascar: (1); Mali: (1), (2); Morocco: (1); Pakistan: (1); Panama: (1); Paraguay: (1); Qatar: (1); Romania: (1); Senegal: (6); South Africa: (1); Sri Lanka: (1); Suriname: (1), (7), (8), (9); Tunisia: (1), (2), (5), (7).*

<sup>219</sup> In many instances, the provisions of Paragraph 10 that are least implemented are those relating to the elimination of excessive physical and mental fatigue, or the conducting of studies and research. Paragraph 10(g) and (h) of the Recommendation.

<sup>220</sup> Madagascar: (1).

<sup>221</sup> Mozambique: (1).



Recommendation, explicitly state in their legislation that the employer is fully responsible for the safety and health of workers and is required to take all the necessary preventive and protective measures to achieve this goal.<sup>222</sup> In the case of countries that have ratified the Convention, high level of coverage is confirmed by the small number of comments made by the Committee of Experts in the past 18 years regarding compliance with this provision.

(2) *Two or more employers at the same workplace*

174. The task of ensuring that an adequate level of safety and health is maintained at worksites, such as large public works or other construction sites, involving several contractors of all sizes and trades, requires the establishment of effective mechanisms for collaboration, coordination and communication, as well as the definition of the respective duties and responsibilities of each of the actors on the site. Article 17 provides that “whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention”, while Paragraph 11 of the Recommendation specifies that in this case “they should collaborate in applying the provisions regarding occupational safety and health and the working environment, without prejudice to the responsibility of each undertaking for the health and safety of its employees. In appropriate cases, the competent authority or authorities should prescribe general procedures for this collaboration.”

175. In practice, this area is specifically regulated in many countries.<sup>223</sup> In addition, some countries explicitly provide for the allocation of joint responsibility between the different employers within one undertaking, thus holding all employers engaging in activities in a workplace liable for any situation that violates OSH legislation.<sup>224</sup> EU Member States generally follow the provisions of Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, which, in principle, are equivalent to those in the Convention and the Recommendation. **Finland** recently adopted legislation specifically regulating OSH issues at shared workplaces.<sup>225</sup> However, not all countries provide for joint responsibility. In Cameroon, while undertakings are required to collaborate in regard to OSH measures, each employer may continue to be responsible for damages caused by his/her own activities. In Peru, the employer in charge of the workplace, or the principal contractor, has to guarantee coordination of OSH for all workers and the contracting of insurances. In Thailand, employers operating simultaneously on a single worksite must collectively set up firefighting capabilities. A small number of countries such as *Lesotho* and *Malawi* report that they do not regulate this area. For others, no information was available or reported on the subject.<sup>226</sup> The Committee of Experts has formulated comments over the years to 19 member States that have ratified the Convention asking them to clarify their coverage of this area, which indicates that further progress is needed in this regard.

<sup>222</sup> Argentina: (1); Bahrain: (5); Belize: (3); Cameroon: (1); Israel; Mozambique: (1); Myanmar: (1); Syrian Arab Republic: (1); and *Zimbabwe*: (1), (3).

<sup>223</sup> For example: *Algeria*: (5), (9); *Australia*: (1), (8); *Austria*: (2); *Belgium*: (1); *Brazil*: (10); *Canada* (both provincial and federal levels); *Cyprus*: (1), (7), (8), (12), (14); *Greece*: (1); *Hungary*: (1); *Ireland*: (1); *Italy*: (1); *Mauritius*: (1); *Portugal*: (1); *Poland*: (1); *Romania*: (1); *Senegal*: (6); *Spain*: (1), (7); *Thailand*: (4), (16), (17); and the *United Kingdom*: (5).

<sup>224</sup> *Belarus*: (1); ***El Salvador***: (3); *Nicaragua*: (2); *Panama*: (1); *Turkey*: (1); and *Uruguay*: (11).

<sup>225</sup> ***Finland***: (6).

<sup>226</sup> *Honduras*, *Pakistan*, *Philippines*, *Saudi Arabia* and the *United Republic of Tanzania*.

176. A different approach consists in requiring the allocation of responsibilities through a written agreement between employers engaged simultaneously in a workplace, creating a contractual relationship between the parties as regards the health and safety measures within the workplace. For instance, in *Belarus*, a written agreement defines joint responsibility of the employers in an undertaking as regards OSH. On the other hand, a written agreement between employers could take the form of an arrangement as to the common protective measures to be taken or the safety control within the workplace,<sup>227</sup> or could constitute a contract specifying each employer's responsibility on particular issues (*Cuba*) or appointing a coordinator or a manager among the employers to implement the OSH measures to be taken.<sup>228</sup> In *China* the agreement designates a full-time manager who will be responsible for safety inspection and coordination. Under the national legislation of Poland, employers must appoint – by agreement – a coordinator to supervise OSH for all employees hired in the same place and to establish rules of cooperation, including the procedure to be applied in the event of danger to the health or life of employees. Nevertheless, the appointment of the coordinator does not free individual employers from the duty to ensure safe and healthy working conditions for their workers.

177. Other countries require the establishment of joint committees or units, comprising representatives of employers simultaneously engaged in activities at a workplace and of their workers, to serve as a means of collaboration in dealing with OSH issues. In Burkina Faso, for example, an inter-enterprise safety and health committee must be established at worksites involving more than one employer and lasting more than six months. It is chaired by an employer designated by all the employers on the site and is comprised of two representatives of each employer and an OSH workers' representative elected by the workers. In *Turkey*, employers may establish a joint health unit and become partners of it, being jointly responsible as regards OSH issues in the workplace.<sup>229</sup> The Islamic Republic of Iran reports that given the surge in the number of occupational accidents and diseases due to the involvement of many contractors in development projects, the Ministry of Labour and Social Affairs has embarked on the development of regulations targeting safety for contractors.

178. Another question raised by the Office during the preparatory work in 1980 was whether subcontractors should be required to comply with the safety and health measures decided by the main contractor or the owner.<sup>230</sup> In their responses, several member States did agree that the main contractor or owner should be responsible for ensuring that subcontractors comply with the measures and that the provision should be without prejudice to the responsibility of the main contractor or owner.<sup>231</sup> Such a provision was considered in the context of the proposed Recommendation No. 164 but, while an express provision to that effect was not included in the final version of the

<sup>227</sup> *China*: (1) and *Slovenia*: (1).

<sup>228</sup> *China*: (1); *Czech Republic*: (1) *Lithuania* (2); *The former Yugoslav Republic of Macedonia*: (1); and *Slovenia*: (1).

<sup>229</sup> *Turkey*: (23). See also *Tunisia*: (5) and the *Bolivarian Republic of Venezuela*: (1).

<sup>230</sup> Point 22(2) in the Questionnaire, Report VII(a)(1), ILC, 66th Session, 1980, p. 68.

<sup>231</sup> Report VII(a)(2), ILC, 66th Session, 1980, pp. 62–64.

relevant paragraph, such a requirement was considered to be implicitly provided in Paragraph 11.<sup>232</sup>

179. These observations are generally reflected in practice. For example, in *New Zealand* responsibility for OSH requirements in situations where there are two or more employers rests with either the principal or the person who controls the workplace, a principal being someone who engages any other person (other than an employee) to do any work for gain or reward. This is also the case in Switzerland, where an employer who contracts services of the employees of another employer has the same obligations to them in relation to OSH requirements as to his or her own employees. Temporary workers are covered in countries such as Belgium, *Cuba*, *Czech Republic* and *New Zealand*.

180. The issue of the principal contractor–subcontractor relationship arises particularly in construction, manufacturing and ship-building sectors. In *Turkey*, the principal employer is jointly liable with the subcontractor for fulfilling OSH obligations,<sup>233</sup> and the employer or project supervisor must appoint one or more OSH coordinators when more than one employer or subcontractor is present on a construction worksite. The *Czech Republic* requires that an employer who provides construction, assembly, scaffolding or maintenance work for another natural or legal person at the employer's workplace shall ensure, together with that person, that the workplace is equipped for the safe performance of work.<sup>234</sup> Similarly, in Japan, employers undertaking construction, ship-building and manufacturing shall take necessary measures for liaison and coordination between related works. In *South Africa*, Suriname and Israel, where the principal contractor operates simultaneously with the subcontractors, coordination of functions is headed by the principal contractor.

### (3) *Emergency response systems*

181. Although some of the countries surveyed did not provide specific information on the subject in their reports, an analysis of the legislation indicates that a large majority cover, albeit to varying degrees,<sup>235</sup> the provisions of Article 18 prescribing that employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements. Depending on the size and activity of the undertaking, the national regulatory requirements range from a simple first-aid kit to fully fledged emergency response systems, including planning, evacuation procedures and firefighting capacities, as well as coordination with public emergency response services. In Madagascar, emergency response arrangements are focused on firefighting. The requirements also include the training of employees assigned to these functions.

182. Very often, particularly in developing countries where occupational health services play a major role in the implementation of OSH requirements, first-aid arrangements are placed under the competence of the occupational health nurse or physician, when there is

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<sup>232</sup> Which follows from the fact that, when the Worker members at the final stages of the preparatory work queried the reason for the unexplained deletion of the subparagraph on this subject, the Office explained that it had considered that this question was covered by the wording of paragraph 11. See ILC, 67th Session, Geneva, 1981, *Provisional Record* No. 25, para. 118, p. 25/13.

<sup>233</sup> See also *El Salvador*: (3).

<sup>234</sup> *Czech Republic*: (2).

<sup>235</sup> Observations and requests for information related to Article 18 made by the Committee of Experts as recently as within the last five years show that a small number of countries still have difficulties in complying with the provisions in this Article, or in providing the appropriate implementation information.

one in the undertaking. First-aid training is provided by the occupational physician in *The former Yugoslav Republic of Macedonia* and *Cape Verde*. In *Lesotho*, the employer is required to make arrangements for the provision of first aid, firefighting and evacuation of workers in the event of a serious danger.

183. A coordinated approach involving public emergency services is common in all industrialized countries, particularly in the context of legislation relating to major hazard installations and transport of hazardous materials. The legislation of the *Czech Republic* requires the employer, on the basis of a risk assessment of the undertaking, to coordinate emergency response plans with the fire brigade, the police and public health services, and to establish and train an emergency response team that is proportional in size to the degree of the potential risk at the workplace. All the EU Member States are required to comply with the Directive concerning major accident hazards.<sup>236</sup> Furthermore, countries that have ratified the ILO Prevention of Major Industrial Accidents Convention, 1993 (No. 174),<sup>237</sup> are required to establish stringent emergency response capabilities in high-risk undertakings processing highly hazardous materials, such as chemical products with toxic, flammable or explosive properties, in large quantities. In India, the employer must prepare and review periodically adequate plans and procedures to be followed in the event of emergency or serious and imminent danger, and that must cover first aid, firefighting and evacuation, as well as coordination with appropriate public emergency services.

## B. Availability of OSH services and advice

184. Occupational safety and health is a very complex domain that draws on many scientific fields, medicine, social sciences and even economics. Its effective implementation at the workplace requires staff with specific qualifications, skills and experience, as well as specialized installations and equipment. The level of expertise and number of qualified persons and infrastructures required will depend very much not only on the size of the enterprise in terms of number of workers employed, but also on its activities and the potential hazards such activities may entail. The resources needed to comply with OSH regulations at the workplace may therefore be considerable in some cases, hence the need for legislation to provide for a level of flexibility that will allow employers to comply with OSH requirements using means adapted to their economic and technical capacities.

185. SMEs with limited resources and few employees may designate a technician, an employee or the manager as OSH officer after appropriate training. External expertise can be sought to obtain advice or to resolve specific issues requiring a higher level of technical knowledge and equipment, or to carry out periodic safety and health audits to ensure compliance with legal requirements. Larger undertakings may be required to establish OSH teams with broader expertise and means. An OSH service may include safety engineers, industrial hygiene specialists, occupational health physicians and an OSH laboratory to analyse exposure measurement samples and to test personal protective equipment, such as respirator cartridges or glove resistance to chemicals. The internal occupational health service may include an occupational health physician, or a nurse capable of providing first-aid treatment in the event of an emergency.

<sup>236</sup> Council Directive 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances, as extended by Directive 2003/105/EC.

<sup>237</sup> *Albania*, Armenia, Belgium, *Brazil*, Colombia, Estonia, India, Lebanon, *Luxembourg*, *Netherlands*, Saudi Arabia, *Sweden* and *Zimbabwe*.

186. Accordingly, Paragraph 13 of the Recommendation provides for a degree of flexibility in that the human and material capacities to implement OSH requirements should be adapted “as necessary in regard to the activities of the undertaking and practicable in regard to its size” and that provision should be made for “(a) the availability of an occupational health service and a safety service, within the undertaking, jointly with other undertakings, or under arrangements with an outside body; and (b) recourse to specialists to advise on particular occupational safety or health problems or supervise the application of measures to meet them”.

187. The levels and types of services required by the legislation embody the element of flexibility in terms of the structure of services and the size and activities of the undertaking. In all cases, the legal requirement is focused on the provision of OSH and advisory services which must address both the occupational safety and occupational health needs of workers. Employers have the choice between establishing their own services internally, sharing external services with other undertakings in their area of activity and, when this is not possible, making use of private services, which are usually certified by the competent authority.

188. Occupational health services play a major role in the management of OSH at the enterprise level in many countries, including Latin American, European and Asian countries (such as the Philippines), but particularly in African countries, where the law provides for medical inspection services and for the establishment of or access to occupational health services. In Burkina Faso, OSH services and counselling in the enterprise are provided by the Occupational Health Service, which may be either established within the enterprise or an outside service shared by several enterprises. Similarly, in other countries in the region, such as Cameroon, the employer must provide internal OSH services, or access to external services, which may also be a source of advice on OSH-related issues. Very often, the Safety and Health Committee must include the occupational health physician<sup>238</sup> on either a full-time or part-time basis, depending on the size of the undertaking. Germany reports that the total number of occupational physicians in the country was 12,300 in 2007, and the number of OSH specialists is estimated at 80,000.<sup>239</sup> In Qatar, medical care provided to workers must also include prevention programmes for workers against hazards and occupational diseases.

189. The occupational safety and the occupational health services are usually separate functions but can be either integrated into one institution or kept separate. In Belgium, the employer is required to establish an internal OSH service composed of at least one OSH advisor. It includes a risk management section and may also have a medical surveillance section. The employer may call on a certified external service to carry out tasks that cannot be done internally. In *Spain*, several employers may establish a common OSH service. In enterprises with fewer than 20 employees, the employer can assume the role of OSH advisor and call on an external service to assist him. In *Brazil*, employers are required also to establish safety and health services that must include an occupational health physician, a safety engineer and a technician, and an occupational health nurse and assistant. In the *Republic of Moldova*, a labour protection service must be established in enterprises with 50 or more employees and those employing fewer than that number may use an external OSH service; a medical service must be created when there are 300 employees or more, and in enterprises with fewer workers, the employer

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<sup>238</sup> Egypt, Cameroon and Senegal.

<sup>239</sup> Data provided by the Association of German Safety Engineers.

and workers' representatives must negotiate the establishment of or access to a medical service through collective bargaining.

190. Another regulatory approach, such as the one adopted in the United Kingdom, focuses more on the availability of OSH and occupational health expertise to the employer rather than on internal infrastructures. In such cases the employer must employ one or more specialists or use external services. In Austria, employers must appoint safety officers and medical officers who may be their employees or use external services that employ qualified safety experts and occupational medical officers. In *Cyprus*, the employer is required to appoint internal or external specialists; external OSH services must be approved by the Chief Inspector of the Department of Labour Inspection.

191. Advice on OSH issues is normally provided to employers by qualified personnel staffing their OSH, occupational safety or occupational health service, or by external services contracted to assist them in complying with OSH requirements. They may also obtain advice and assistance from the competent national authorities responsible for OSH (including labour, OSH and occupational health inspectors), and may access OSH-related information through a number of mechanisms such as specialized Internet sites, electronic mail, or telephone answering services, as already described previously.<sup>240</sup>

### C. Rights and duties of workers and their representatives

192. As part of the provisions governing action at the level of the enterprise, Articles 19–21 of the Convention regulate the rights and duties of workers, their representatives in the workplace and their representative organizations. These provisions are complemented in the Recommendation by Paragraph 16, which provides further guidance as to the responsibilities of workers, and Paragraph 12(2), regarding measures to be taken to facilitate the participation of workers and their representatives at the workplace in OSH-related activities as well as cooperation with employers in meeting their duties and responsibilities in this area.

193. It was generally agreed during the preparatory work on the instruments<sup>241</sup> that an international instrument setting forth the fundamental objectives and defining the basic principles of a coherent national policy on safety and health and the working environment would probably not fulfil its purpose unless it contained a reference to both the rights and duties of workers concerning the prevention and control of occupational hazards. Accordingly, discussions were focused, on the one hand, on how to articulate the respective rights and duties of workers, workers' representatives and their organizations in OSH matters, and on the other, on the means needed to exercise those rights and duties to ensure effective cooperation and collaboration with the employer and participation in OSH matters.

194. As with the provisions of the Convention relating to the duties and responsibilities of the employer in OSH, practically all the countries surveyed to a very large extent give effect to the provisions of Article 19 and, in particular, Paragraph 16 of the Recommendation. Effect is also given to a good part of the provisions of Paragraph 12(2) of the Recommendation. This underlines the importance given by countries to the responsibilities and participation of workers, their representatives and their

<sup>240</sup> See Chapter II, section 7, subsection C.

<sup>241</sup> ILO: *Safety and health and the working environment*, Report VII(a)(2), ILC, 66th Session, Geneva, 1980, p. 77.

representative organizations in relation to OSH matters. As elaborated further below, the mandatory or voluntary establishment of a Safety and Health Committee, or similar arrangements whereby appointed or elected workers' delegates or representatives play an important role in ensuring dialogue between workers and the employer in this area, is a common feature of national OSH legislation. A very small number of countries<sup>242</sup> reported that, although their legislation defines the duties of workers regarding OSH, it provides neither for the establishment of workplace cooperative or collaborative arrangements, nor for the participation of workers or their representatives in OSH matters. However, some countries, such as Argentina, *Belize* and Pakistan, have indicated that participation of workers may occur through their representative organizations in the context of collective bargaining agreements.

(1) *Workers' duty to cooperate*

195. Article 19(a) provides that there shall be arrangements at the level of the undertaking under which workers, in the course of performing their work, cooperate in the fulfilment by their employer of the obligations placed on them. This provision is the counterpart of the obligations laid upon undertakings in Article 16(1). It was drafted along the general lines of Article 7 of Convention No. 148.<sup>243</sup> Paragraph 16 of the Recommendation provides further guidance concerning the arrangements provided for in Article 19, which must be aimed at ensuring that workers take care of their own safety and that of others, comply with instructions and procedures, use safety devices and protective equipment correctly, and report hazardous situations and accidents or injury to health.

196. A majority of countries give effect to the provisions in both Article 19(a) of the Convention and Paragraph 16 of the Recommendation, which concern the cooperation of workers in fulfilling OSH requirements. Countries frequently provide for sanctions in case of workers' non-compliance with safety rules. In Singapore, this can result in fines. The failure of the worker to comply with workplace safety rules and to cooperate with the employer is regarded in *Spain* as serious misconduct which may result in disciplinary measures by the employer. Refusal to follow instructions or to use required protective equipments is regarded as a misdemeanour in *Brazil*. In Morocco, non-compliance may lead to immediate dismissal without compensation. Smoking in mines can result in fines in the United States, and civil penalties in Thailand.

(2) *Workers' representatives*

197. Article 19(b) provides that representatives of workers cooperate with the employer in the field of OSH. This indicates a broader scope of functions in the role of these representatives in the implementation of OSH measures in the undertaking. This is further explained in Paragraph 12(2) of the Recommendation detailing the attributions related to the functions of "Workers' safety delegates, workers' safety and health committees, and joint safety and health committees, or, as appropriate, other workers' representatives ...".

198. The great majority of countries have legislation in this area. In some countries,<sup>244</sup> trade union representatives in the undertaking exercise the safety and health functions and represent workers in relation to OSH matters. In the United Kingdom, trade union safety representatives have the right to carry out investigations, inspect the workplace,

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<sup>242</sup> *Albania*, Argentina, *Belize*, Ghana, Grenada, Myanmar, Pakistan, Paraguay and Sri Lanka.

<sup>243</sup> Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), Art. 7.

<sup>244</sup> *Belarus*, Burkina Faso, *Cuba*, *Czech Republic*, Egypt, Indonesia, Poland, Suriname and Ukraine.

represent workers in OSH matters, and attend safety committee meetings. In Egypt, the Chair of the safety and health committee is selected from among competent workers by the governing body of the trade union in the undertaking. In *Slovenia*, a workers' representative with OSH responsibilities must be provided with the same wide functions and rights which apply to Works Councils.

199. Article 19(c) further underlines the importance of the role of worker representatives by providing that they must be given adequate information regarding OSH measures taken by the employer, and must be able to consult with their representative organizations, provided that they do not disclose commercial secrets. This role is further explained in Paragraph 12(2) of the Recommendation. As they are logically necessary for effective cooperation arrangements, these provisions are also reflected to a large extent in the national legislations regulating such arrangements. In *Portugal*, workers' representatives must be fully informed on all OSH matters, and consulted in writing by the employer at least twice a year on the OSH situation in the undertaking and measures taken or planned.

200. The issue of commercial secrets was the subject of intensive debate a few years later, during the Conference Committee discussions in 1989 and 1990 concerning Article 18(4) of the Chemicals Convention, 1990 (No. 170).<sup>245</sup> The GHS<sup>246</sup> includes a detailed section<sup>247</sup> on a comprehensive resolution of the issue elaborated collaboratively by the representatives of employers' and workers' organizations. In *Australia*, for example, the worker representatives can obtain OSH-related information, except information to which the employer claims or is entitled to claim legal privilege, or confidential medical information.

### (3) *Training of workers and their representatives*

201. Article 19(d) provides for arrangements at the level of the undertaking under which "workers and their representatives in the undertaking are given appropriate training in occupational safety and health". It highlights the importance of OSH training for ensuring that workers and their representatives have the knowledge and skills required to collaborate effectively with the employer in implementing OSH requirements in the workplace. This provision is again a logical necessity to ensure that workers can implement the required preventive and protective measures, and that their representatives can participate with the employer in managing OSH. In general, the employer makes available the time and resources needed to have this training provided by external government or private specialized institutions, including organizations of employers and workers. This is also provided for by the legislation of a significant number of countries, particularly those with provisions regulating the establishment of workplace cooperation and collaboration arrangements for OSH. However, in many cases the available information on the subject does not provide details on the nature and extent of training, particularly for workers. In *Australia*, health and safety representatives must undertake accredited OSH training. In *Belarus*, workers are periodically tested on their OSH knowledge. In *Brazil*, workers must receive special training for specific tasks such as operation of mobile equipment or boilers, and the employer must provide

<sup>245</sup> cf. Article 18(4) of Convention No. 170: "Where disclosure of the specific identity of an ingredient of a chemical mixture to a competitor would be liable to cause harm to the employer's business, the employer may, in providing the information required under paragraph 3 above, protect that identity in a manner approved by the competent authority under Article 1, paragraph 2(b)."

<sup>246</sup> See box on GHS in Chapter II, section 7, subsection F(2).

<sup>247</sup> Section 1.4.8, p. 27, of the English version.



workers' representatives with extensive training in all aspects of OSH. In *Cuba* and *Mexico*, workers have to take part in OSH and first-aid courses. In Madagascar, training of workers' representatives is provided by the employer or through the National Labour Institute. In *New Zealand*, health and safety representatives are entitled to two paid leave days each year to attend certified health and safety training courses.

(4) *Participation of workers, their representatives and their organizations in inquiries*

202. Article 19(e) provides that “workers or their representatives and, as the case may be, their representative organizations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking”. In order to improve safety and health at the workplace, the causes of accidents and incidents have to be investigated so that appropriate preventive measures can be applied to prevent their recurrence. Inquiries are also important for anticipating and identifying potential workplace hazards. In this context, consultation and continuous dialogue between employers and workers and their representatives on all aspects related to OSH is an essential element of prevention. Moreover, the effective management of OSH requires periodic workplace inspections and reviews of action taken, involving all personnel. The possibility of calling on external experts that may represent the employer or the employees is an important element in the resolution of complex or conflictual situations.

203. In practice, inquiry functions are regulated in many countries as they form part of the normal tasks of safety and health committees or some other similar arrangements. Detailed information on how inquiries are implemented in practice is provided below in the context of arrangements for cooperation under Article 20 of the Convention.<sup>248</sup> As regards the participation of workers' representatives in inquiries, the scope of their participation is generally broad, but there are cases where specific limits exist, such as in *Australia*, where recent amendments to the Commonwealth Workplace Relations Act of 1996 impose significant restrictions on the trade union right of entry to an undertaking. However, in *Spain*, workers' representatives have the right to take part in OSH negotiations and to testify before competent authorities and tribunals in respect of OSH. In other countries, such as Burkina Faso, the inquiry functions fall within the remit of the safety and health committees, where the workers' representative is designated from among trade union representatives in the undertaking. In most countries, depending on the size of the undertaking, workers participate in the management of OSH, usually through their OSH representatives in the safety and health committee, but also, in some cases, directly.<sup>249</sup> In *Portugal*, *Slovenia* and *Spain*, both workers and their representatives have the right to take part in discussions on all OSH-related issues.

(5) *Situations presenting an imminent and serious danger*

204. Article 19(f) provides that there shall be arrangements at the level of the undertaking under which “a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if

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<sup>248</sup> See Chapter II, section 8, subsection D, below.

<sup>249</sup> *Portugal*: (1); *Slovenia*: (1); *Spain*: (1).

necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health”.<sup>250</sup>

#### D. Cooperation between employers and workers

205. Cooperation between employers and workers is an essential principle of OSH, and one without which no tangible progress in this area can be achieved. In 1980, during the first Conference discussion of the issue, both the Employer and the Worker members agreed in their opening statements that they had a common interest in OSH and that favourable results at the workplace could best be achieved by cooperation rather than confrontation.<sup>251</sup> During the discussion, it was pointed out that, as no government would ever have the resources needed to carry out the necessary inspections that were really required to ensure, as far as possible, that people worked in a safe and healthy environment, cooperation between employers and workers in this area was essential. It was also pointed out that not only should the State and its services establish and supervise the implementation of the fundamental objectives and basic principles in the field of OSH, but employers and workers had an even greater responsibility in this field, and workers in particular should play a more active role.<sup>252</sup> Article 20 of the Convention accordingly requires that cooperation between management and workers and their representatives within the undertaking shall be an essential element of organizational and other measures taken in pursuance of Articles 16–19 of the Convention. In order to ensure the necessary flexibility, details of the types of mechanisms needed to facilitate cooperation and their functions are set out in Paragraph 12 of the Recommendation as guidance.

206. In practice, a large majority of the countries surveyed require the establishment of structures for cooperation between management, workers and their representatives, and define, often in detail, the nature and composition of those structures according to the size (in terms of number of employees) and functions of the enterprise. In countries where the terms of this cooperation are not regulated, cooperation is encouraged through various promotional programmes or included as part of collective bargaining arrangements.<sup>253</sup> This demonstrates the importance given by all countries to social dialogue and cooperation, and sometimes to the co-management of safety and health matters, as essential elements in implementing effective preventive and protective measures at the workplace.

##### (1) *Arrangements for cooperation*

207. A specific threshold number of employed workers is generally used in most countries to trigger the requirement for the establishment of a safety and health committee that includes the employer or a representative of the employer, a safety or OSH officer, an occupational physician, where there is one, and an equal number of

<sup>250</sup> This issue and the related national practice were discussed earlier in the context of Articles 5(e) and 13. See Chapter II, section 4, subsection E, above.

<sup>251</sup> ILO: *Provisional Record* No. 42, ILC, 66th Session, Geneva, 1980, pp. 42/2–42/3.

<sup>252</sup> ILO: *Safety and health and the working environment*, Report VI(1), ILC, 67th Session, Geneva, 1981, para. 20.

<sup>253</sup> See immediately below.

workers' and employers' representatives.<sup>254</sup> External experts and even the labour inspector may be invited to attend meetings of the committee where necessary.

208. In *Brazil*, depending on the size of the enterprise, it is a legal obligation to establish internal accident prevention committees or to appoint safety delegates. Specific committees exist for some economic activities, such as work in ports, mineral extraction and farming. In Costa Rica, undertakings with ten or more workers must establish an occupational safety committee and undertakings with more than 50 workers are required to establish an occupational safety department at the workplace. In Canada, both at the federal and provincial levels, the threshold for setting up a safety and health committee is 20 or more workers. Undertakings with 300 or more workers must establish health and safety policy committees which can take a more strategic approach to global OSH issues. Smaller undertakings (with fewer than 20 employees) or those otherwise exempted must appoint a health and safety representative who has basically the same duties and functions as the committee. In some Canadian provinces, such as Alberta, Manitoba and Ontario, various programmes<sup>255</sup> have been established to promote continuous cooperation between employers and workers in the area of OSH. In Madagascar, workers' delegates elected in undertakings with 11 or more workers ensure that OSH and social protection requirements are met by the enterprise. Undertakings with more than 11 workers are required to establish a bipartite Works Council which is the enterprise's mechanism for negotiation, dialogue and cooperation between the employer and workers on all labour issues, including OSH. In Qatar, any undertaking employing 30 or more workers may establish a joint safety and health committee.

209. In some countries, particularly those where the industrial base used to be state-owned, trade union representatives in the undertaking monitor employer compliance with OSH requirements. In *Belarus*, the monitoring is based on the principles of social partnership between unions, employers and state authorities. Monitoring of compliance by employers, owners and their representatives is carried out by trade unions (and their federations) through their legal and technical inspection departments set up under the terms of their own statutes. In the *Czech Republic*, *Hungary*, *The former Yugoslav Republic of Macedonia* and *Ukraine*, the trade unions within the enterprise play a major role in ensuring compliance with OSH requirements and cooperation with the employer.

210. In several countries, enterprise safety and health committees or other cooperation mechanisms are established on a voluntary basis by the employer and workers or their representatives and, very often, such mechanisms are established in the context of collective bargaining agreements.<sup>256</sup> In the *Republic of Moldova*, bipartite labour safety committees may be created to ensure cooperation between employers and workers or their representatives in undertakings. In the United States, the establishment of cooperation mechanisms is not a requirement but is promoted by the OSHA through specific programmes and may be part of collective bargaining arrangements, specifically in the mining industry. In *China*, the establishment of work safety committees is done on a voluntary basis at the initiative of the employer or workers, or through a collective bargaining contract signed by the representative workers' organization. *China* has

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<sup>254</sup> This threshold is, for example, ten in Colombia, Costa Rica, Honduras and *Bolivarian Republic of Venezuela* and 20 in Canada, *Denmark*, Dominican Republic, *El Salvador*, *Finland*, Germany, Greece and *Ireland*, and 25 in Peru. In Austria, this threshold number is 100 workers, or 250 workers in cases where three-quarters of the posts pose risks equivalent to those of an office environment.

<sup>255</sup> Worksafe Alberta Initiative and Partnership in Health and Safety; Internal Responsibility System in Manitoba and Ontario.

<sup>256</sup> As, for example, in *Belize*, Pakistan and Suriname.

indicated that, to date, over 90 per cent of its state-owned enterprises have included bipartite cooperation on safety and health in collective contracts.<sup>257</sup> This is not, however, the case with private undertakings.

211. In the United Kingdom, the approach is highly flexible, and somewhat different from examples of practice in other countries. Although it is the duty of every employer to consult with workers or their representatives on ways and means of establishing and maintaining arrangements which will enable both parties to cooperate effectively in promoting, developing and checking OSH measures,<sup>258</sup> employers and workers are free to choose the type of arrangement they will find jointly suitable. The HSE<sup>259</sup> has produced a large amount of written guidance for employers on ways of involving workers. The approach is similar in *New Zealand*, where freedom to choose and organize the employee participation system is safeguarded by default provisions which require the election of OSH representatives if the system has not been set up within certain time limits.

212. A small number of countries indicated in their reports that their legislation did not include specific provisions for cooperation and collaboration between employers and workers at the level of the undertaking, or that the respective representatives did not provide any information on the subject.<sup>260</sup> Sri Lanka pointed out that a proposed new OSH Act includes provisions complying with Article 20 of the Convention. Malawi reports that, although it is required by law, very few workplaces have such arrangements in place due to a lack of resources and skills.

## (2) *Functions of the cooperation mechanisms*

213. Paragraph 12 of the Recommendation describes in detail the conditions under which the workers' representatives should perform their functions in these mechanisms, ranging from the single workers' delegate in a small enterprise to worker representatives in joint safety and health committees. While assuming OSH functions, they should be adequately informed, consulted before any changes are made in the enterprise and protected from dismissal while exercising their functions. They should also be able to contribute to decision-making processes and negotiations, have free access to all parts of the undertaking and to all workers, be free to contact the competent authorities, have reasonable time during their paid working hours to exercise their functions, and be able to have recourse to external specialists when the need arises.

214. The information provided by countries on this subject is mostly very general, indicating only that employers and workers are expected to cooperate in ensuring compliance with OSH regulations and maintaining safe and healthy working conditions. Reference is also made to the right of workers to participate fully in the management of OSH within the enterprise and to be informed on all related issues. In most cases, the functions of safety and health committees generally follow the guidance provided in the Recommendation. In some countries, such as Burkina Faso, Guatemala, Poland and *Turkey*, these functions are regulated in detail.

<sup>257</sup> *China*: Information from the *National Profile Report on Occupational Safety and Health in China*, Beijing, 2004, pp. 13–14.

<sup>258</sup> United Kingdom: (1).

<sup>259</sup> More information on HSE's initiatives on worker involvement can be found at [www.hse.gov.uk/involvement/index.htm](http://www.hse.gov.uk/involvement/index.htm).

<sup>260</sup> *Albania*, Argentina, Ghana, Grenada, Panama and Sri Lanka.

## E. Provision of OSH measures at no cost to workers

215. Article 21 of the Convention provides that OSH measures shall not involve any expenditure for workers. Originally, this provision was included in the text of the proposed Recommendation but it was moved to the Convention in the context of the final discussion in 1981. The scope of Article 21 is not limited to expenditures for OSH measures, but also covers other costs, such as costs for medical examinations. However, this provision does not require that the employer should pay for every minute cost in this context.

216. In practice, this provision appears to be applied in most of the countries covered by this General Survey, including ratifying countries. In the case of *Ethiopia*, pending the adoption of regulations to ensure the provision of OSH measures at no cost to the workers, the question is normally regulated in collective agreements.<sup>261</sup> In a number of countries, such as Canada, this matter is also regulated by collective agreements for major occupational sectors although in one sector, workers have traditionally borne the cost of a very small number of types of protective equipment. There are some restrictions as to the type of protective equipment that is provided at no cost. In *Mexico*, employers are prohibited from charging workers for any measures taken in connection with conditions of work. In Pakistan, while this issue is not regulated, the Government maintains in its report that it is an accepted norm within the industry that workers will not have to pay for OSH measures. In *Zambia*, common law provides that workers will not be involved in any expenditure to ensure their own safety. According to reports from *Algeria*, Bahrain and *Belize*, Article 21 is not reflected in their respective legislation.

217. The Committee is of the view that Article 21 must be read in conjunction with Article 16(3) of the Convention which requires employers “to provide, where necessary, adequate protective clothing and protective equipment”. This provision operationalizes the right given to workers in Article 21. Both provisions involve employers’ obligations at the level of the undertaking. The Committee considers that the term “provide” in Article 16(3) read together with the words in Article 21 “shall not involve any expenditure for the workers” leaves open various possibilities as to how this obligation is to be fulfilled. The Committee also considers that it is up to the member State to determine, through one of the methods identified in Article 8 of the Convention, what amounts to “adequate protective clothing and protective equipment”. In this regard, it draws special attention to the role that collective bargaining might play.

## 9. References to other instruments

218. In its final paragraph, Recommendation No. 164 provides for the concluding guidance that in the development and application of the policy referred to in Article 4 of the Convention and without prejudice to their obligations under Conventions which they have ratified, Members should refer to the international labour Conventions and Recommendations listed in the appendix to Recommendation No. 164.<sup>262</sup> This text is a “List of instruments concerning occupational safety and health and the working environment adopted by the International Labour Conference since 1919”, which reflects the ILO’s regulatory history in the field of OSH.

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<sup>261</sup> See direct request addressed to *Ethiopia* in 2000.

<sup>262</sup> See Appendix IV to this General Survey.

219. In the light of the adoption since 1981 of several instruments in this area, this list is to a large extent outdated. This is the case, inter alia, with regard to the provisions on recording and notification and the production of statistics, which are now also regulated by the Protocol.<sup>263</sup> In the context of continuous efforts to improve its standards-related activities, the ILO carried out a detailed examination on the pertinence of all ILO instruments adopted between 1919 and 1985. This resulted in the grouping of ILO instruments in categories including up to date instruments, instruments to be revised and outdated instruments.<sup>264</sup> Accordingly, several of the instruments referred to in the list annexed to Recommendation No. 164 are outdated or due for revision.

220. The decision to apply an integrated approach to ILO standards-related activities was followed by a further decision to apply this approach to the OSH area and to carry out a broad-based strategic discussion on future action to be taken in this field. A general discussion on ILO standards-related activities in the area of OSH<sup>265</sup> was held at the 91st Session of the ILC (June 2003) and resulted in the adoption of a Global Strategy on Occupational Safety and Health<sup>266</sup> and subsequently, in 2006, in the adoption of Convention No. 187 and Recommendation No. 197. Taking into account these developments, as well as the fact that the Maritime Labour Convention, 2006, and the Work in Fishing Convention, 2007 (No. 188), revise relevant OSH-related aspects concerning seafarers and fishers respectively, a new up to date list of ILO instruments relating to OSH was annexed to Recommendation No. 197.<sup>267</sup> The Committee of Experts therefore considers that the list of instruments in the appendix to Recommendation No. 164 has been replaced by the list of instruments in the annex to Recommendation No. 197.

221. It should be noted that the lists of instruments annexed to Recommendations Nos 164 and 197 respectively are for guidance only. Similarly, as regards all other provisions in ILO Recommendations, governments are invited, but not required, to seek guidance from the instruments listed in the relevant annex when developing their national legislation. This is also the case as regards the reference made in Paragraph 5 in the Recommendation.<sup>268</sup>

222. A number of countries<sup>269</sup> state in general terms that ILO OSH instruments have been taken into account in the development of their national law and practice on OSH, or refer specifically to the instruments they may have ratified.<sup>270</sup> EU Member States,<sup>271</sup> often refer to EU Directives and strategies related to OSH that are reflected or are being transposed into national legislation. The United Kingdom specifically indicates that its

<sup>263</sup> See Appendix VI.

<sup>264</sup> The most up to date list is found at [www.ilo.org/ilolex/english/subjectE.htm#s12](http://www.ilo.org/ilolex/english/subjectE.htm#s12).

<sup>265</sup> See [www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-vi.pdf](http://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-vi.pdf).

<sup>266</sup> See [www.ilo.org/public/english/protection/safework/globstrat\\_e.pdf](http://www.ilo.org/public/english/protection/safework/globstrat_e.pdf).

<sup>267</sup> See Appendix V.

<sup>268</sup> The fact that the Governments of *Cyprus* and *Poland* may not have ratified the instruments referred to in Paragraph 5 of the Recommendation No. 164 and in its appendix is thus not an obstacle to ratification of Convention No. 155.

<sup>269</sup> *Australia*, *Canada*, *Indonesia*, *Egypt*, *Malaysia*, *Saudi Arabia*, *Slovakia*, *Tunisia*, *United States*, *Yemen* and *Zimbabwe*.

<sup>270</sup> *Czech Republic*, *Cyprus*, *Japan*, *Lebanon*, *Madagascar*, *Mauritius*, *Republic of Moldova*, *Netherlands* and *Ukraine*.

<sup>271</sup> Including *Austria*, *Bulgaria*, *Latvia*, *Poland* and the *United Kingdom*.

legislative framework is a combination of compliance with European Directives and ILO Conventions, along with domestic inspired legislation to deal with its particular health and safety priorities. Some countries report that they are using certain specific ILO OSH instruments for guidance.<sup>272</sup> *China*, for example, is using ILO codes of practice for this purpose. Myanmar and Singapore refer to the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*. Finally, Suriname refers to the programme sponsored by the ILO and the Organization of the Petroleum Exporting Countries (OPEC) on Implementing HIV/AIDS Workplace Policies and Programmes in selected countries in Africa, Latin America and Caribbean (2006–08).

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<sup>272</sup> Austria (Convention No. 187); *China*, inter alia (Convention Nos 170 and 167); France (the instruments listed in the appendix to Recommendation No. 164); Germany (Convention No. 187); Philippines (Conventions Nos 81, 119 and 139); and the United States (Convention No. 152).

## Chapter III

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### **Requirements of ILO standards and review of national law and practice: Recording and notification and the 2002 Protocol**

#### **1. Background**

223. As noted previously, the Convention and the Recommendation include general provisions for the recording and notification of occupational accidents and diseases.<sup>1</sup> Before the adoption of the Protocol, these instruments and other relevant ILO standards<sup>2</sup> dealt only to a limited extent with the need for harmonization and more effective systems for the recording and notification of accidents and diseases as an essential tool for developing preventive action. This meant that national definitions of occupational accidents and diseases frequently differed from international standard definitions such as those recommended by the International Conference of Labour Statisticians (ICLS).<sup>3</sup> Recording and notification procedures, as well as the coverage and sources of statistics, vary among countries. Unless harmonization is achieved in these respects, international comparisons concerning the evaluation of success in compliance, enforcement and preventive action may not be possible, or at least may be very difficult. Statistics of occupational accidents and diseases based on a harmonized approach to the recording and notification of occupational accidents and diseases would provide an effective quantitative indicator for both countries and international governmental organizations in measuring progress and the overall effectiveness of national OSH systems.

224. The List of Occupational Diseases contained in Schedule I to the Employment Injury Benefits Convention, 1964 (No. 121) [Table I modified in 1980] (the List), is particularly relevant to the subject as an important international model for compensation purposes, and also a point of reference for countries that are not bound by Convention No. 155. As science, knowledge and practice in this area evolve rapidly, this List would require more regular updating than its inclusion in a legally binding instrument would allow. This question was eventually resolved by the adoption of the List of Occupational Diseases Recommendation, 2002 (No. 194). This Recommendation does not revise the list of occupational diseases annexed to Convention No. 121 but provides for an innovative and simplified procedure for updating the list on a regular basis, through tripartite meetings of experts convened by the Governing Body of the ILO. A first

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<sup>1</sup> Art. 11(c) of the Convention and Para. 15(2) of the Recommendation.

<sup>2</sup> Including Convention No. 81, the Protection of Workers' Health Recommendation, 1953 (No. 97), as well as the Employment Injury Benefits Convention, 1964 (No. 121) [Table I modified in 1980].

<sup>3</sup> [www.ilo.org/public/english/bureau/stat/techmeet/icls/index.htm](http://www.ilo.org/public/english/bureau/stat/techmeet/icls/index.htm). For further details regarding relevant classification schemes, see Chapter III, section 6, below.



meeting of experts convened for this purpose in 2005 was, however, inconclusive. One of the issues discussed was whether the list should be used for compensation purposes only or also for prevention purposes.<sup>4</sup> A meeting of experts in October 2009 is expected to adopt an updated list.

225. The discussions on the revision of the List included considerations on the need to reinforce the provisions regarding recording and notification contained, inter alia, in the Convention and Recommendation. The code of practice on recording and notification of occupational accidents and diseases, prepared in 1996,<sup>5</sup> served as a basis for the subsequent adoption of a Protocol on the same subject in 2002.

## 2. Scope and coverage

226. The scope of the recording and notification requirements in the Protocol is determined by the four types of events defined in its Article 1: occupational accidents, occupational diseases, dangerous occurrences and commuting accidents.<sup>6</sup>

### A. Occupational accidents

227. According to Article 1, paragraph 1(a) of the Protocol, an occupational accident covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury. A proposal made during the preparatory stages to add the words “whether physical or mental” to this definition was not pursued because the concept “mental injury” implied by the amendment threatened to complicate the definition of the scope of the instrument.

228. Virtually all countries covered by the General Survey require occupational accidents to be notified<sup>7</sup> but the definitions vary as to what constitutes an “occupational accident” for notification purposes. Fatal accidents must invariably be notified. Some countries provide for the contingency that death may not be an immediate consequence of the accident.<sup>8</sup> Other countries distinguish between accidents and “serious” accidents, more stringent requirements being applied in the case of the latter. In *New Zealand*, for example, all injuries and other types of harm in the workplace must be recorded in an accident register by the employer, self-employed person or principal, but serious harm, illness or injury must be notified to the competent authority.<sup>9</sup> In many countries, notification requirements are triggered by the length of time the worker is absent from work as a result of the accident. In many countries, such as in *Slovenia*, in line with current EU standard in this area, notification requirements include any injury at work that renders the employee incapable of work for at least three consecutive working days.<sup>10</sup> In other cases, a more generic definition is provided. In Greece, for example, an

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<sup>4</sup> ILO: *Report of the Meeting of Experts on Updating the List of Occupational Diseases*, MEULOD/2005/10, Geneva, 13–20 December 2005, p. 15.

<sup>5</sup> [www.ilo.org/public/english/protection/safework/cops/english/download/e962083.pdf](http://www.ilo.org/public/english/protection/safework/cops/english/download/e962083.pdf).

<sup>6</sup> As originally proposed, this Article also included a definition of the term “incident” covering an unsafe occurrence, other than a “dangerous occurrence”, arising out of or in the course of work where no personal injury is caused. This definition was deleted with the support not only of the Employer members and numerous Government members, but also of the Worker members. See ILO: *Record of Proceedings*, p. 24/15, ILC, 90th Session, Geneva, 2002.

<sup>7</sup> Except Bahrain, where no system appears to be established, and the United Republic of Tanzania.

<sup>8</sup> As in *Hungary*: (1) and *Greece*: (3).

<sup>9</sup> *New Zealand*: (1).

<sup>10</sup> *Slovenia*: (1).

accident at work refers to “a sudden event due to a violent incident, causing death or damage to the health or physical integrity of the person insured, and occurring during the performance of work or on the occasion of it and not caused by the insured person”.<sup>11</sup>

## B. Occupational diseases

229. According to Article 1(b) of the Protocol, the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activities. A proposal to include diseases not only contracted but also aggravated was discussed during the course of the preparatory work on the Protocol, but was withdrawn because of the difficulty of establishing a cause-and-effect relationship between workplace conditions and the state of health of workers.<sup>12</sup>

230. In practice, the notification of occupational diseases is regulated in the majority of countries covered by this General Survey.<sup>13</sup> The system of referring to an established list based on either international or regional standards is commonly used. European Union countries tend to follow the list of the European schedule of occupational diseases provided for under the European Commission Recommendation No. 2003/670/EC of 19 September 2003,<sup>14</sup> which includes a comprehensive list of occupational diseases that should be notified.<sup>15</sup> Other countries, such as Mauritius<sup>16</sup> and Panama,<sup>17</sup> also report that they make use of established lists of occupational diseases. National lists often include more items than the current ILO list (annexed to Convention No. 121), which underscores the need to update the ILO list.

231. Other countries have defined what constitutes an occupational disease or have adopted a mixed system that combines a national list of occupational diseases and a definition that is broad enough to include diseases that are not specifically mentioned in the list. In *Slovenia*, for example, occupational diseases are defined as being specific diseases caused by the long-term direct effect of the work processes and working conditions in a specific job, or by work that directly involves activities for which the diseased person has been insured, and a list has been adopted within the country’s rules concerning the list of occupational diseases.<sup>18</sup> In *Cuba*,<sup>19</sup> the notification of an occupational disease is subject to a diagnosis by an occupational health specialist or a private or labour doctor. In Greece, an occupational disease is the acute or chronic unhealthy condition of the person insured, caused by an adverse impact of the practice of

<sup>11</sup> Greece: (4).

<sup>12</sup> The Worker members withdrew this amendment, restating the principle that “the workplace should be safe for all, even those with pre-existing health problems”. See ILO: *Record of Proceedings*, ILC, 90th Session, Geneva, 2002, Vol. II, p. 24/13, paras 71–74. Some countries, such as *Spain*, regulate this matter and provide that diseases that are proven to be caused by the execution of work only or caused or aggravated by an occupational accident are also to be notified. *Spain*: (12).

<sup>13</sup> *Algeria*: (7); *Belarus*: (4); *Belgium*: (5); *Brazil*: (8); *Canada*: (1); *Congo*: (1); *Cuba*: (12); *Cyprus*: (3), (8), (12)–(14); *Czech Republic*: (1); *Madagascar*: (1); *Mauritius*: (1); *Mexico*: (8); *Republic of Moldova*: (2); *Morocco*: (1); *Myanmar*: (1); *New Zealand*: (1); *Portugal*: (8); *Romania*: (1); *Singapore*: (3); *Slovenia*: (1); *Spain*: (10); *Sri Lanka*: (1); *Trinidad and Tobago*: (1); *Turkey*: (1), (5); *Bolivarian Republic of Venezuela*: (3); *Zimbabwe*: (1), (3); and the United Kingdom: (3).

<sup>14</sup> <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2003:238:SOM:EN:html>.

<sup>15</sup> For example, *Cyprus*: (15).

<sup>16</sup> *Mauritius*: (1).

<sup>17</sup> *Panama*: (1).

<sup>18</sup> *Slovenia*: (11), (12).

<sup>19</sup> *Cuba*: (12).

a profession, which decreases or eliminates the gainful capacity of the person insured. According to case law, a disease that breaks out under extraordinary, exceptional and irregular conditions is considered to come within the definition of a “violent and sudden incident” and constitutes an accident at work, which is why the person insured enjoys the same protection and social insurance coverage for both types of incident. *Spain* also has a mixed system,<sup>20</sup> as does *China*, where a definition is given of occupational diseases and a catalogue of occupational diseases is published by the State. According to the Chinese definition, an occupational disease must satisfy the following criteria: the subject of the disease must be a worker of an enterprise, public utility or privately owned economic entity; it must have occurred in performing an occupational activity; it must have been caused by exposure to elements of occupational hazards such as dust, radioactive substances and toxic or other hazardous substances.<sup>21</sup> In Lebanon, it is established by decree that occupational diseases are caused by exposure to chemical, physical and biological agents at the workplace and by ergonomic factors.<sup>22</sup>

232. The issue of recording and notifying suspected cases of occupational diseases is closely linked not only to the question of the compensation owed to workers that are suffering from diseases of occupational origin but also to efforts in preventing such diseases from occurring. As experience demonstrates, many occupational diseases have long latency periods – some up to 20 years or more – and it is generally recognized that precautionary action based on suspicions while scientific evidence is being established could save workers from being unnecessarily exposed to risks.<sup>23</sup> Hence the importance of gathering relevant data on suspected cases of occupational diseases with a view to alerting those responsible to the possibility that a given disease might have an occupational origin.<sup>24</sup> Based on the premise that the recording and notification of suspected cases of occupational diseases could serve as an “early warning system”<sup>25</sup> and contribute to the prevention of occupational diseases, the Protocol and Recommendation No. 194 both include several references to “suspected occupational diseases.” But, as reflected in the preparatory work on both the Protocol and Recommendation No. 194, this notion was controversial.<sup>26</sup> Despite extensive discussions, neither of these instruments provides for a definition of this category.

### C. Dangerous occurrences

233. While occupational accidents and diseases relate to events that have caused harm, Article 1(c) of the Protocol focuses on dangerous occurrences, a term which is used to cover readily identifiable events as defined under national laws and regulations, with the potential to cause an injury or disease to persons at work or to the public. The reasoning

<sup>20</sup> *Spain*: (12).

<sup>21</sup> *China*: (2).

<sup>22</sup> *Lebanon*: (2).

<sup>23</sup> A case in point is asbestos as, although suspicions about the role of asbestos in causing, inter alia, mesothelioma – a form of lung cancer – were first raised in the 1920s, it took decades to establish a conclusive cause-and-effect-link between mesothelioma and exposure to airborne asbestos fibres.

<sup>24</sup> ILO: *Record of Proceedings*, ILC, 90th Session, Geneva, 2002, Vol. II, p. 24/58, para. 541.

<sup>25</sup> *ibid.*, p. 24/56 para. 526.

<sup>26</sup> The Employers felt that an extended list of suspected cases would render employers liable for compensation, while no clear evidence existed that the disease was occupational. On the other hand, the Governments and Workers insisted that prevention was fundamental; thus, a preventive approach would imply the recording of any diseases that might be occupational, in order to help the authorities to take the necessary measures. See ILO: *Record of Proceedings*, ILC, 90th Session, Geneva, 2002, Vol. II, *Provisional Record* No. 24, paras 172–185.

behind the requirement to include such occurrences in the reporting and notification requirements is that an increasing rate of dangerous occurrences may serve as a warning and an early indication to act and that knowledge of such events will greatly enhance the possibilities to prevent injuries or diseases caused by such events.

234. Although information is available from only a limited number of countries, it can be noted that reporting on dangerous occurrences is provided for in the legislation of a number of countries.<sup>27</sup> In *Hungary*, a dangerous occurrence is defined to be “any and all factors arising in the course of or in relation to work, possibly representing any peril or harm to people performing work or staying within the scope of work and shall include, in particular, physical hazards such as hazardous substances; biological hazards; and physiological, nervous and psychic strain”.<sup>28</sup> The legislation in *Cyprus*<sup>29</sup> and *Mauritius*<sup>30</sup> includes a list of dangerous occurrences to be notified, while in *Slovenia*, the Government reports that a dangerous situation is defined as an event where considerable material damage may occur or has occurred, or where an employee’s health or life may be or has been put at risk, or where an injury may occur which would render the injured worker incapable of work. *The former Yugoslav Republic of Macedonia* requires that any event which represents an imminent risk to the safety of employees at work be recorded and notified.

#### D. Commuting accidents

235. As defined in Article 1(d) of the Protocol, a commuting accident is an accident resulting in death or personal injury occurring on the direct way between the place of work and: (i) the worker’s principal or secondary residence; (ii) the place where the worker usually takes a meal; or (iii) the place where the worker usually receives his or her remuneration.

236. Although a reference to commuting accidents was not a novelty in ILO instruments,<sup>31</sup> the inclusion of such a reference in the Protocol became, however, one of the most controversial issues debated during the preparatory work, reflecting practical difficulties that the recording and notification of commuting accidents may entail in practice. In that context, it was clarified that “the ILO distinguished commuting accidents from occupational accidents, and that any accident outside the workplace that did not fit the three cases enumerated in Article 1(d) of the Protocol would not be classified as a commuting accident by the ILO, but that national regulations could differ”.<sup>32</sup>

237. While some countries include commuting accidents in their definition of occupational accidents,<sup>33</sup> they do not necessarily include all the Protocol-prescribed situations of a commuting accident. For example, in *Brazil*, the definition of an

<sup>27</sup> Including, for example, Canada; *Cyprus*; **Finland**; *Hungary*; Madagascar; Mauritius; Peru; Philippines: (2); Poland; Romania: (1); Singapore: (1); *Slovenia*; Sri Lanka: (1); *South Africa*: (7); **Sweden**: (2); and the United Kingdom: (3).

<sup>28</sup> *Hungary*: (1).

<sup>29</sup> *Cyprus*: (15), Annex I.

<sup>30</sup> Mauritius: (1), Schedule 12.

<sup>31</sup> See Article 7 of Convention No. 121 and the 1996 code of practice on recording and notification of occupational accidents and diseases.

<sup>32</sup> ILO: *Record of Proceedings*, ILC, 90th Session, Geneva, 2002, Vol. II, p. 24/16, para. 99.

<sup>33</sup> Including Argentina; Austria: (8); *Brazil*: (8); Burkina Faso; Cameroon; **Finland**; France: (1); Mali; *Latvia*; *Spain*: (12); and **Sweden**.

occupational accident includes accidents suffered by an insured worker outside the workplace and outside normal working hours; during the execution of an order or the realization of a service under the responsibility of the enterprise; during a spontaneous provision of service to the enterprise in order to prevent a harmful situation or provide a benefit; when travelling to provide a service for the enterprise; or on the way between the worker's residence and workplace. In Colombia a commuting accident is considered as an occupational accident only when the employer provides transport facilities. In other countries, such as *Slovenia*, commuting accidents are included in the definition of an employment injury and are considered to be "employment injuries suffered by insured persons on their regular route between their residence and their place of work, on the way to perform work assignments or on the way to work".<sup>34</sup> In Tunisia, the definition of an occupational accident includes accidents occurring on the way between an employee's residence and his or her workplace, provided that there is no interruption or detour for personal reasons. Statistical data on commuting accidents in *Latvia* cover accidents that occur to a worker between shifts while in a vehicle that is owned by their employer.

238. In many countries, commuting accidents are not subject to notification.<sup>35</sup> In *Hungary*, an accident is only deemed to be work-related if it occurs while the worker is travelling between home and work in the employer's own or hired vehicle.<sup>36</sup> Malawi reports that information on commuting accidents is not available under OSH statistics but is usually reported to the Ministry of Labour and Vocational Training for compensation purposes. In the same way, the Confederation of Polish Employers indicates that, although the data on commuting accidents are not published by the Central Statistical Office, they are revealed by employers in their reports.

239. To date, the Committee of Experts has only had one occasion to examine the application in practice of the Protocol by a ratifying State.<sup>37</sup>

### 3. Common requirements

240. Although the purpose of the Protocol is to harmonize systems for the recording and notification of occupational accidents and diseases, the need for flexibility is reflected in its Article 2, which provides that the competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for the recording and the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

241. The establishment and periodic review of national systems for recording and notification must be carried out in consultation with the most representative organizations of employers and workers. Given the status of the Protocol vis-à-vis the Convention, the words "in consultation with" in the Protocol should be given the same

<sup>34</sup> *Slovenia*: (11).

<sup>35</sup> For example, Canada, Mauritius, Peru, Poland, Sri Lanka and the United Kingdom. It should be noted that the Employers' Federation of Ceylon of Sri Lanka viewed the difficulties as regards the recording and notification of commuting accidents as an obstacle to the ratification of the Protocol by the Government of Sri Lanka; hence there was no inclusion of this term in the new draft national OSH legislation in Sri Lanka.

<sup>36</sup> *Hungary*: (1).

<sup>37</sup> Direct request by the CEACR to *Finland* in 2007 concerning a request for further information concerning the Protocol.

meaning as in the context of the Convention. Accordingly, this provision of the Protocol does not merely request a single round of consultations with the most representative organizations of employers and workers when establishing a national system for recording and notification, but calls for a continuing dialogue with them as necessary.<sup>38</sup> As regards the required periodicity, it was clarified during the preparatory work that the term “periodically” implied “a regular, although not necessarily constant, period of a year or two”.<sup>39</sup>

242. Articles 2 and 3 of the Protocol provide that the recording and notification requirements shall include “suspected cases of occupational diseases,” a concept which, as noted above, is not defined in the Protocol. According to the available information on implementation in practice, some countries<sup>40</sup> include “suspected cases of occupational diseases” in their national recording and notification systems. A number of them, such as *Cyprus*,<sup>41</sup> have established a list specifying suspected occupational diseases. However, according to available information, other countries do not appear to include this category in their recording and notification requirements. It should also be noted that *New Zealand* maintains a Notifiable Occupational Disease System database on the basis of notifications provided on a voluntary basis on the incidence of occupational diseases. Medical practitioners and victims are encouraged to report suspected incidences of occupational diseases.

#### 4. Recording requirements and procedures

243. According to Article 3(a) of the Protocol, the requirements and procedures for recording shall determine employers’ responsibility in four areas, as discussed below.

##### A. Responsibility to record

244. Article 3(a)(i) provides that employers are responsible for recording occupational accidents and diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases. During the course of the preparatory work, a proposal to provide that employers should be entitled to delegate this responsibility was discussed but rejected.<sup>42</sup>

245. In many countries, the employer is required to record occupational accidents and diseases.<sup>43</sup> In other countries, such as *Turkey* and *Switzerland*, the employer has to

<sup>38</sup> See Chapter II, section 2 (third paragraph).

<sup>39</sup> ILO: *Record of Proceedings*, ILC, 90th Session, Geneva, 2002, Vol. II, p. 24/16, para. 196.

<sup>40</sup> Including *Belarus*: (4); ***Finland***; *Hungary*; *Madagascar*; *Morocco*; *Portugal*: (8); *Poland*; *Singapore*; and *Spain*: (11). As regards ***Finland***, the CEACR has had cause to note certain difficulties in relation to the practical application of this requirement in the country. According to the observations submitted by the Central Organization of Finnish Trade Unions (SAK), recent amendments to the national legislation appear to have restricted the statistical information to be provided by employers, creating some uncertainty as to whether it is still legally required to notify suspected cases of occupational diseases. Further information on this issue has been requested. See CEACR direct request addressed to ***Finland*** in 2007 concerning the Convention.

<sup>41</sup> *Cyprus*: (15).

<sup>42</sup> ILO: *Record of Proceedings* ILC, 90th Session, Geneva, 2002, Vol. II, pp. 24/28–24/29, paras 229, 235–237 and 239.

<sup>43</sup> For example, *Argentina*; *Cuba*: (2), (3), (11); *Cyprus*; *Czech Republic*: (1); *Greece*: (1), (12); *Hungary*: (4); *Madagascar*; *Mauritius*: (1); *Mexico*: (8); *Netherlands*; *New Zealand* (1); *Philippines*: (2); *Qatar*: (3); *Romania*: (1); *Singapore*; *Spain* (1), (3); *Sri Lanka*: (1); *Suriname*: (1); ***Sweden***; *The former Yugoslav Republic of Macedonia*; *Ukraine*: (2); *United Kingdom*: (3); *Uruguay*: (9); *United States* (only employers with 11 or more employees); and *the Bolivarian Republic of Venezuela*: (1).

notify occupational accidents and diseases to competent authorities such as the labour ministry, social security institutions or statistical bodies, which in turn are responsible for the recording. In *Cyprus* (and also *New Zealand*) self-employed persons are required to record and notify incidents occurring to themselves, an employee or a third person. In the event that a self-employed person is involved in a fatal accident, the notification process is carried out by the victim's closest relative.<sup>44</sup> In some countries, such as *Zimbabwe*, failure by employers to fulfil their obligations in this regard entail penalties.

(1) *Informing workers and their representatives*

246. According to Article 3(a)(ii), employers must provide appropriate information to workers and their representatives concerning the recording system. A level of flexibility is provided through the use of the word “appropriate.” This requirement is regulated in a number of countries,<sup>45</sup> including for example in *Finland* where employers and workers and their representatives are required to cooperate and where the employer is required to give workers “in good time” all necessary information that affects the safety or the working conditions of the workplace, including information regarding the recording procedure and the reporting of cases.<sup>46</sup> Other member States, such as *Mexico*,<sup>47</sup> require employers only to communicate the annual statistics of risks at work to workers and other concerned parties. Some Governments, such as those of the *Czech Republic* and the *Republic of Moldova*, indicate that the requirement to record occupational accidents and diseases is covered by the requirement for workers and employers to cooperate in the investigation of accidents. However, although such participation is important, it fulfils a different purpose than the requirement set out in Article 3(a)(ii).

(2) *Maintenance and use of records*

247. Article 3(a)(iii) provides that employers have a responsibility to ensure appropriate maintenance of relevant records and their use for the establishment of preventive measures. Once again, a level of flexibility is provided through the use of the word “appropriate.” National legislation in the majority of member States<sup>48</sup> regulates the appropriate maintenance of records of occupational accidents and diseases, which are used for the establishment of preventive measures, either by the employer or by the competent authorities, such as labour inspectorates. In *Mexico*, for example, the employer is legally required to maintain a register in a prescribed form and subsequently to prepare annual statistics on risks at the workplace to be communicated to the Safety and Health Commission, to workers and, on request, to the Secretariat of Labour and Social Security.<sup>49</sup>

(3) *Protection of workers from retaliatory or disciplinary measures*

248. As discussed above,<sup>50</sup> Article 5(e) of the Convention protects workers and their representatives from disciplinary measures as a result of actions properly taken by them

<sup>44</sup> *Cyprus*: (15).

<sup>45</sup> *Belarus*: (4); *Canada*: (1); *Finland*; *Madagascar*; *Poland*; and the *United Kingdom*: (14), (15), (16).

<sup>46</sup> *Finland*: (3).

<sup>47</sup> *Mexico*: (2).

<sup>48</sup> As in, for instance, *Belarus*: (4); *Congo*: (1); *Cuba*: (2), (3), (11); *Cyprus*: (1); *Czech Republic*: (1); *Finland*: (1), (2); *Madagascar*; *Mauritius*: (1); *Mexico*: (8); *Morocco*; *New Zealand*: (1); *Romania*: (1); *Sri Lanka*: (1); *Bolivarian Republic of Venezuela*: (1); *Zimbabwe*: (3) and the *United Kingdom*: (3).

<sup>49</sup> *Mexico*: (2).

<sup>50</sup> For an analysis of Article 5(e) of the Convention and practice, see Chapter II, section 4, subsection E.

in connection with the prevention of accidents and injury. Based on the argument that this provision did not give specific protection to workers who report an occupational accident or disease, dangerous occurrence, commuting accident or suspected case of occupational disease, Article 3(a)(iv) was introduced to the Protocol to prevent retaliatory or disciplinary measures against a worker for reporting such events. As regards practice in this respect, virtually no information is available, although the Philippines reported that this provision was not specifically covered by its legislation.

## B. Information to be recorded

249. Article 3(b) of the Protocol provides that the requirements and procedures for the notification shall determine the information to be recorded. National laws and regulations often specify the information that is required.<sup>51</sup> In *Slovenia*, for example, the employer must keep records of any workplace injury, collective accident, dangerous situation, established occupational disease or work-related disease and its cause.<sup>52</sup> The inclusion of data on the gender of the workers (as, for example, is required in *Albania*, *Hungary*<sup>53</sup> and *Uruguay*<sup>54</sup>) makes it possible to analyse gender-specific trends.

## C. Duration for maintaining the records

250. Article 3(c) of the Protocol provides that the requirements and procedures for recording shall determine the duration for maintaining records of occupational accidents and diseases, dangerous occurrences, commuting accidents and suspected cases of occupational diseases. However, no minimum duration for the keeping of these records is prescribed. According to available information, the minimum prescribed duration varies considerably, for example from two years in *Uruguay* to 30 years in *Cyprus*. In other countries, such as the Philippines, there is no prescribed duration for this question.

## D. Confidentiality

251. According to Article 3(d), the requirements and procedures for recording shall determine measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.<sup>55</sup> Except for *Finland* where effect is given to this provision in relevant legislation, virtually no information is available on the application of this provision in practice. Only the Philippines provided specific information, indicating that this question was not regulated in national legislation.

# 5. Notification requirements

252. As indicated previously, Article 11(c) of the Convention provides, in rather general terms, that member States are required progressively to establish and apply procedures for the notification of occupational accidents and diseases by employers as well as by

<sup>51</sup> See for example *Cyprus*: (1), (15); *Madagascar*; *Mexico*: (8); *Morocco* (only as regards occupational diseases); *Sri Lanka*: (1); *Suriname*: (1); *Zimbabwe*: (3); *United Kingdom*: (3); and *New Zealand*: (1).

<sup>52</sup> *Slovenia*: (1).

<sup>53</sup> *Hungary*: (1).

<sup>54</sup> In *Albania*, 13 per cent of the victims of occupational accidents in 2006 were women and 87 per cent were men. In *Uruguay*, men were involved in most of the accidents: in 2007, 123 men and three women were involved in occupational accidents.

<sup>55</sup> Guidance on confidentiality matters is also available in the ILO code of practice on protection of workers' personal data, 1997, at [www.ilo.org/public/english/protection/safework/cops/english/download/e000011.pdf](http://www.ilo.org/public/english/protection/safework/cops/english/download/e000011.pdf).



other entities such as insurance institutions, occupational health services, medical practitioners and other bodies directly concerned. Article 4 of the Protocol further specifies that the requirements and procedures for the notification should cover occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases and determine the criteria according to which these events are to be notified as well as the time limits for notification.

## A. Employers' responsibilities

### (1) *Notification to competent authorities or other designated bodies*

253. According to Article 4(a)(i) of the Protocol, employers are required to notify occupational accidents and diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases to the competent authorities or other designated bodies. In practice, many countries<sup>56</sup> require employers to notify the labour inspectorate of occupational accidents and diseases at the workplace as required in Article 14 of Convention No. 81.<sup>57</sup> In some other countries, the competent authority for such notification is the ministry of labour and social security,<sup>58</sup> the social security or social insurance institutions or the central OSH body.<sup>59</sup> Many countries have designated specific bodies which also have to be notified. In addition to the national statistical institute, which is often entitled to receive such notification,<sup>60</sup> some countries provide that, for example, the occupational physician,<sup>61</sup> the conciliation and arbitration body,<sup>62</sup> the workers' compensation bodies<sup>63</sup> and the national provident fund services<sup>64</sup> must also be notified. It is interesting to note that, in the *Republic of Moldova*,<sup>65</sup> the employer must immediately report industrial accidents (by telephone or any other means of communication) not only to the Labour Inspectorate, but also to the National Social Insurance Agency, and, where necessary, to the national, regional or local trade union body, technical or energy supervisory body and the local preventive medicine centre (in the event of acute poisoning). In the event of serious or fatal accidents, the local police commissariat in the region where the accident occurred and the management of the enterprise concerned have to be informed. If a worker of a foreign enterprise is involved, information must be given to the diplomatic representative of the victim's country. In

<sup>56</sup> Austria: (8); Belgium: (3); Burkina Faso; Cameroon; *Cape Verde*: (4); Congo; *Cuba*: (3), (11); *Cyprus*: (15); Ecuador (1); Greece; Grenada: (1); *Lesotho*; Madagascar; Mali; *Mexico*: (2); *Republic of Moldova*: (11); Mauritius: (1); Poland; Romania: (1); Singapore: (9); *Slovenia*: (1); Suriname: (1); *Bolivarian Republic of Venezuela*: (3), and *Zimbabwe*: (3).

<sup>57</sup> Several countries that have ratified Convention No. 81 do not, however, give effect to this provision as, for example, Dominican Republic. See RCE, 2007 concerning the application of Convention No. 81.

<sup>58</sup> For example, Canada: (1) (as regards annual reports on all incidents); *Cuba* (in case of fatalities); Ecuador, Jordan; Peru; Qatar and *Uruguay*.

<sup>59</sup> As, for example, in Costa Rica, Italy or the United States.

<sup>60</sup> As in Austria, *Algeria*, *Brazil*, Burkina Faso, Congo, Jordan, *Republic of Moldova*, Poland, Romania, Tunisia, *Turkey* and *Uruguay*.

<sup>61</sup> *Cyprus* and Italy.

<sup>62</sup> *Mexico*: (2).

<sup>63</sup> Sri Lanka: (3); and Canada.

<sup>64</sup> Cameroon and Mali.

<sup>65</sup> *Republic of Moldova*: (11).

*Turkey*, Poland, Romania and Qatar the local police or criminal investigation bodies are also to be notified.

(2) *Informing workers and their representatives*

254. According to Article 4(a)(ii), the notification requirements and procedures shall also determine the responsibility of employers to provide appropriate information to workers and their representatives concerning the notified cases. With some exceptions, there is a tendency, in practice, not to regulate this issue specifically but to provide, more generally, that workers and their representatives should receive all relevant information. For instance, in *Hungary*, the employer is required to supply the person performing labour safety duties with any and all information related to labour safety, and to provide the material and organizational conditions required. The legislation in **Finland**, however, regulates the information requirements in detail and it is provided, in particular, that workers have the right to require proof of notification of accidents or diseases to which they have been exposed.<sup>66</sup>

B. Notification by other bodies

255. The responsibility for notification does not lie solely with employers and may be shared by other institutions. Article 4(b) of the Protocol provides for certain flexibility in this respect, indicating that there should also be arrangements, where appropriate, for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned. It is considered particularly important that medical practitioners, who are frequently the first to diagnose an occupational disease, be required to notify such diseases to competent authorities.<sup>67</sup> In fact, in practice, the occupational health physician is often required to notify occupational diseases.<sup>68</sup> In Suriname, the company doctor, with whom the employer has an agreement, is responsible for notifying such diseases. In the same way, in Peru, the medical centre to which the worker is affiliated has to notify occupational diseases. In some countries, medical practitioners are required to notify any declared or suspected cases of persons suffering from notifiable occupational diseases<sup>69</sup> or to provide a written statement diagnosing the disease.<sup>70</sup> Some countries also require insurance institutions to notify occupational accidents and diseases.<sup>71</sup> In **Finland**, the Labour Protection Authority is required to report work-related diseases to the Institute of Occupational Health, which is required to record the notification in its register.<sup>72</sup> Furthermore, insurance companies and the State Treasury must on an annual basis notify the Finnish Federation of Accident Insurance Institutions of all occupational accidents and illnesses reported to them by employers.<sup>73</sup> In the *Bolivarian Republic of Venezuela*, employers are required to notify occupational accidents and diseases to the National Institution for Prevention, Safety and Health at Work. The family of the worker, the

<sup>66</sup> **Finland**: (1).

<sup>67</sup> ILO: *Recording and notification of occupational accidents and diseases and ILO list of occupational diseases*, Report V(2A), ILC, 90th Session, Geneva, 2002, pp. 45–50.

<sup>68</sup> This is the case for example in Belgium, Cyprus, Greece, *Hungary*, Italy, Morocco and Romania.

<sup>69</sup> This is the case for example in *Belarus*, Mauritius, *Portugal* and *Spain*.

<sup>70</sup> United Kingdom.

<sup>71</sup> **Finland**, *Cape Verde* and *Portugal*.

<sup>72</sup> **Finland**: (2).

<sup>73</sup> **Finland**: (5).

Committee of Occupational Safety and Health, another worker or a trade union can also notify such accidents and diseases.<sup>74</sup> In the *Netherlands*, enterprises are required to have a contract with experts or a service for preventive safety and health care. These preventive services have to report work-related illnesses to the National Centre of Occupational Diseases.

(1) *Criteria determining the notification requirements*

256. Article 4(c) of the Protocol prescribes that the requirements and procedures for the notification shall determine the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified. This provision allows for a large amount of flexibility in its application.

257. In practice, the detailed information made available mostly by European countries indicates that a great variety of criteria are applied. In some countries (such as Austria), only certain sectors of economic activity are covered by the notification requirements (for example, industry, agriculture and public service), while in other countries (such as Peru and *Turkey*), every work accident and occupational disease is notifiable. As regards occupational accidents and diseases, the triggering criteria are often related to the time of absence from work.<sup>75</sup> In the United States, the notification requirements are triggered in particular by work-related incidents causing three or more workers to be hospitalized. A number of countries prescribe the use of lists of occupational diseases, dangerous occurrences or notifiable situations that meet specified criteria.<sup>76</sup> *Cyprus* has adopted the European schedule of occupational diseases under European Commission Recommendation No. 2003/670/EC of 19 September 2003,<sup>77</sup> which includes a broad list of notifiable occupational diseases. It has also adopted a list of notifiable dangerous occurrences and diseases that are suspected to be occupational.<sup>78</sup> *Slovenia* also provides for a list of occupational diseases to be notified under its Rules.<sup>79</sup>

(2) *Time limits for notification*

258. In practice, the notification requirements are most often coupled with a time limit, within which these requirements should be met. As these limits vary in practice, it was decided not to prescribe any particular time limit in the Protocol.

259. Notification should be made “without delay” after the accident or diagnosis in *Finland*, “immediately” by telephone or any other means in the *Republic of Moldova*, and “as soon as practicable” in *Lesotho*. Other countries require notification within a time limit of a fixed number of working days, which is commonly 24–48 hours after the

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<sup>74</sup> *Bolivarian Republic of Venezuela*: (1), (5).

<sup>75</sup> In Belgium, all serious accidents and those resulting in more than four days of absence from work are to be notified, while accidents resulting in three days of absence are notifiable in *Cyprus*, *The former Yugoslav Republic of Macedonia* and *Slovenia*: (1). In *Spain*, however, a single day of absence from work triggers the notification requirements. In Italy, occupational injuries resulting in absences from work of at least one day should be notified for statistical purposes while occupational injuries involving absence from work of more than three days shall be notified for insurance purposes.

<sup>76</sup> *Mauritius*: (1), Schedule 14; *Cyprus*: (15); *Cuba*: (12), Annex; *Slovenia*: (12); and *Trinidad and Tobago*.

<sup>77</sup> <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2003:238:SOM:EN:html>.

<sup>78</sup> *Cyprus*: (15).

<sup>79</sup> *Slovenia*: (12).

event.<sup>80</sup> Others fix a longer time limit (from three to 20 working days).<sup>81</sup> The notification requirements regarding fatalities are frequently more stringent. Notification of a fatal accident should be made “immediately” in *Brazil* and Myanmar; “as soon as reasonably possible” in the event of serious harm, illness or injury in *New Zealand* and with “promptness” by the employer in *Hungary* in the event of fatal or mass occupational illness. Notification of a fatal accident should be made within eight hours in the United States; at most 24 hours after the occurrence of the accident or illness resulting in death or permanent total disability in the Philippines, using the fastest available means of communication; and within 48 hours in *Cape Verde*, Grenada and Tunisia. In other countries, more generally, the more serious the incident, the more stringent the reporting requirements.

260. Greece reports on notification requirements that provide for the contingency that the effects of an accident may not be immediate and that regulate how long after the event notification can be made. The time limit for notifying an accident can only be extended beyond 60 days after the accident if it causes a complete disability or the death of the person insured. The time limit for notification for pension purposes may be extended for up to one year from the day of the accident in cases resulting in complete disability, and for up to two years in the event of a fatal accident.<sup>82</sup>

261. In conclusion, although the Protocol provides for rather detailed regulation of the recording and notification requirements, these provisions remain flexible as regards their practical application.

## 6. National statistics

262. As noted previously, Article 11(c) and (e) of the Convention provide that the competent authority or authorities shall ensure the production and publication of annual statistics on occupational accidents and occupational diseases. The question of the production and publication of national statistics is also covered in Articles 6 and 7 of the Protocol. These provisions require that statistical data should also include information on dangerous occurrences and commuting accidents, that this information should be representative of the country as a whole and that the latest internationally relevant classification schemes should be used.

### A. Annual publication of statistics

263. According to Article 6 of the Protocol, each Member shall, based on the notifications and other available information, annually publish statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof. Although during the preparatory work it was acknowledged that some countries might find it difficult to

<sup>80</sup> In *Brazil*, *Cuba* and Peru (for occupational accidents) the general time limit is one working day, while in *Algeria*, Burkina Faso, Congo, Indonesia, Jordan, *The former Yugoslav Republic of Macedonia* and Morocco an occupational accident or diagnosis of an occupational disease must be notified within 48 hours after the event.

<sup>81</sup> The time limit for notification is about three working days in Cameroon and *Mexico*; four days in *Cape Verde*, Grenada and Tunisia; five days in Greece and Peru (for occupational diseases); seven days in Mauritius, Ghana and *South Africa*; eight days in Costa Rica; ten days in Ecuador; and, in the Philippines, a report shall be submitted by the employer to the Regional Labor Office or duly authorized representative on or before the 20th day of the month following the date of occurrence of the accident.

<sup>82</sup> Greece: (3). Similarly also in *Hungary*.

comply with the required annual publication of information, the text was not changed, with reference being made, *inter alia*, to other provisions in the Convention and Article 20 of Convention No. 81.

264. In practice, many countries covered by this General Survey have established systems for the annual publication of statistics or information on measures taken in pursuance of the national OSH policy. For example, the United Kingdom reported that statistical information was published annually in a health and safety statistics booklet, and that, as regards Northern Ireland, in the Health and Safety Executive for Northern Ireland's annual report and statement of accounts. In Austria, the Central Labour Inspectorate publishes annual labour inspection activity reports and at the same time the agricultural and forestry inspectorates of the *Land* governments issue annual reports on their activities and findings, structured in accordance with Article 27 of Convention No. 129. Many countries<sup>83</sup> publish annual statistics and information on OSH measures mainly through the Internet sites of the competent authorities.<sup>84</sup>

265. Some countries<sup>85</sup> reported that they published statistics on occupational accidents only while others reported that they did not publish statistical data at all.<sup>86</sup> Some of these countries did, however, also report some progress in this area, for example: Congo reported that it planned soon to submit to the ILO a memorandum concerning the establishment within the Ministry of Labour and Social Welfare of a service in charge of labour statistics; *El Salvador* indicated that it had adopted a National OSH Plan envisaging the establishment of a system for the publication of information and statistics on occupational accidents and diseases; Trinidad and Tobago stated that annual reports would be published from 2008 onwards; Lebanon reported that efforts were under way to develop a national system on statistics following ILO standards; and *Uruguay*, having received technical assistance from the ILO, indicated that the Government was in the process of installing software with a view to establishing an integrated system for OSH statistics. Following the guidance provided by the adoption of the Protocol, France reports that it is in the process of overhauling its occupational accidents and diseases information system.

266. While most of the countries which publish statistics cover the country as a whole<sup>87</sup> this is not the case, for example; in Colombia where they only cover workers affiliated to the national occupational risk system;<sup>88</sup> in *El Salvador*, Guatemala and Honduras, where they only cover workers insured under the National Institute of Social Security;<sup>89</sup> or in Poland, where statistics do not cover defence and security, public service and

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<sup>83</sup> Including Argentina, *Algeria*, *Belarus*, Belgium, *Brazil*, Burkina Faso, Costa Rica, *Cuba*, *Latvia*, Mali, *Republic of Moldova*, *Portugal*, Singapore, *Spain*, Sri Lanka, *Turkey* and *Bolivarian Republic of Venezuela*.

<sup>84</sup> See, for example, Argentina, at [www.srt.gov.ar](http://www.srt.gov.ar); Belgium, at Occupational Accidents Fund: [www.fat.fgov.be](http://www.fat.fgov.be); and the Occupational Diseases Fund, at [www.fmp.fgov.be](http://www.fmp.fgov.be); *Brazil*, at [www.mte.gov.br](http://www.mte.gov.br) and [www.previdenciasocial.com.br](http://www.previdenciasocial.com.br); Costa Rica, at [www.ins-cr.com](http://www.ins-cr.com); Singapore, at [www.mom.gov.sg/publish/momportal/en/home.html](http://www.mom.gov.sg/publish/momportal/en/home.html); *Spain*, at [www.mtin.es/estadisticas/anuario/htm](http://www.mtin.es/estadisticas/anuario/htm); and the *Bolivarian Republic of Venezuela*, at [www.inpsasel.gov.ve/paginas/estadisticas.htm](http://www.inpsasel.gov.ve/paginas/estadisticas.htm).

<sup>85</sup> Including *El Salvador*, *Republic of Moldova* and *Uruguay*.

<sup>86</sup> Including Congo, Lebanon and Trinidad and Tobago. As regards Lebanon, the only statistics available on occupational accidents and diseases were produced by private insurance firms.

<sup>87</sup> Including for example, *Algeria*, Austria, *Belarus*, Belgium, Burkina Faso, Canada, *Cuba*, *Cyprus*, Indonesia, Italy, Mali, Mauritius, *Mexico*, *New Zealand*, *Portugal*, Romania, Singapore, *Slovenia*, *Spain*, Suriname and United Kingdom.

<sup>88</sup> Representing only about 40 per cent of the working population.

<sup>89</sup> Representing only about 20–40 per cent of the working population.

individual farmers. In some other countries, such as *South Africa*, statistics are published separately for different branches of economic activity.

267. The clear and accepted link between statistics and the development of national policies is explicit in some cases. Through the Australian Safety and Compensation Council, *Australia* and *New Zealand* jointly collect, analyse and publish data representing both countries.<sup>90</sup> This data collection is used, inter alia, to measure progress against national strategies, to identify factors for the improvement of OHS and workers' compensation performance, including resource considerations, and to measure the impact of changes in OHS and workers' compensation over time, including benchmarking where appropriate. Recent legislation in *Uruguay* specifically provides that the central tripartite OSH body should analyse statistics on occupational accidents and diseases in order to be able to contribute to the development of national preventive policies, promote investigations into the risks that chemical, physical or biological agents and ergonomic problems can entail, promote the elaboration of preventive training programmes for workers concerned and evaluate new risks.<sup>91</sup>

## B. Classification schemes

268. One of the stated aims of the Protocol is to harmonize recording and notification systems by establishing internationally comparable statistics. Using unified international classification schemes for the compilation of statistics on occupational accidents and diseases is an important means to achieve that end. Although using such international classification schemes may be a challenge for many countries, developing countries in particular, Article 7 of the Protocol provides that the statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the ILO or other competent international organizations. The wording "following classification schemes that are compatible with" was included to cater for the possible further development of new classification schemes while encouraging a uniform use of existing schemes. All relevant classifications are annexed to the resolution concerning statistics of occupational injuries (resulting from occupational accidents) adopted by the 16th International Conference of Labour Statisticians (October 1998).<sup>92</sup>

269. The reports received contain relatively little information on this question and it is thus difficult to draw any general conclusions. It seems, however, that countries use several different types of classification schemes. Although *Trinidad and Tobago*, *Cameroon*, *Honduras* and *Zimbabwe*<sup>93</sup> report using only the ILO International Standard Classification of Occupations (ISCO), *Brazil's* national economic activity classification scheme apparently follows both the ILO classification scheme<sup>94</sup> and the International Standard Industrial Classification of All Economic Activities (ISIC) of the United Nations.<sup>95</sup> *Costa Rica* also reports using the ISIC scheme. *Singapore* reports that its classification schemes are based on the basic framework and principles of both the ISCO and the ISIC. The Government of *Malaysia* reports that *Malaysia's* classification

<sup>90</sup> Data are available online at [www.nohsc-eu.gov.au/statistics/](http://www.nohsc-eu.gov.au/statistics/).

<sup>91</sup> *Uruguay*: (8).

<sup>92</sup> Available at [www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/---stat/documents/normative\\_instrument/wcms\\_087528.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/---stat/documents/normative_instrument/wcms_087528.pdf).

<sup>93</sup> Excluding commuting accidents.

<sup>94</sup> Excluding dangerous occurrences.

<sup>95</sup> See [www.ibge.gov.br/concla](http://www.ibge.gov.br/concla).

schemes are based on the UK standard and are compatible with the ILO standards. *China*, however, maintains a classification system that is distinct from the international system and adapted to its national conditions; for example, the classification of diseases, in its system of reporting on incidents of occupational intoxication and occupational diseases, follows the ten categories and 115 classes of the 2002 National Catalogue of Occupational Diseases. The industrial sectors are classified according to the Classified Industrial Catalogue of the National Economy of the National Bureau of Statistics.

270. Regionally, significant efforts aimed at the harmonization of the classification criteria have been made, for example, within the European Union.<sup>96</sup> EU countries such as *Cyprus*, *Greece*,<sup>97</sup> *Italy*,<sup>98</sup> *Netherlands*, *Poland*, *Portugal* and *Romania*<sup>99</sup> report that they maintain statistics in accordance with the Statistical Classification of Economic Activities (NACE) of the Statistical Office of the European Communities (Eurostat). The United Kingdom, however, uses classification schemes from the Office for National Statistics, namely the Standard Industrial Classification of Economic Activities (SIC) and the Standard Occupational Classification (SOC) systems.<sup>100</sup> In North America, the coding schemes for injuries and illnesses used in the United States have been developed nationally<sup>101</sup> while the coding of industry has been developed jointly with Canada and *Mexico* under the North American Free Trade Agreement (NAFTA), being more detailed and different than the international coding schemes. In Canada, at the provincial, territorial and federal levels, national statistics are based on a coding structure developed by the Canadian Standards Association.<sup>102</sup> National Canadian statistics produced through the National Work Injury Statistics Program use the 1980 Canadian Standard Industrial Classification.

### C. Available statistical information

271. Some countries included statistical information in their reports, such as *Belarus*, which indicated that there was a decrease in the number of OSH-related accidents between 2004 and 2007. In *Iceland*, information received show a rise in the number of accidents in the workplace due, according to the Administration of Occupational Safety and Health, to an increase in the reporting of accidents rather than in the number of

<sup>96</sup> *European Statistics on Accidents at Work (ESAW) – Methodology*, Statistical Office of the European Communities (Eurostat), 2001, at [http://ec.europa.eu/employment\\_social/news/2002/apr/1130\\_en.pdf](http://ec.europa.eu/employment_social/news/2002/apr/1130_en.pdf) and the European Occupational Diseases Statistics (EODS), Eurostat, 2000, at [http://ec.europa.eu/employment\\_social/health\\_safety/docs/method\\_en.pdf](http://ec.europa.eu/employment_social/health_safety/docs/method_en.pdf).

<sup>97</sup> Greece reports that, with regard to occupational diseases, annual statistics are kept by the Social Insurance Institute (the IKA), which is the largest social security organization of the country, and that the collection of sufficient and reliable data and, hence, the publication of relevant data from IKA are not satisfactory, as the system to recognize, record and notify them has not been fully developed. The form for recording accidents at work follows the recording protocol established under Phase II of the European statistics on accidents at work (ESAW) methodology, and has not been harmonized with the current recording protocol, established under ESAW Phase III, in which new parameters of information are added, which cannot be determined by the services of the IKA and the insured person.

<sup>98</sup> [www.inail.it](http://www.inail.it).

<sup>99</sup> Also uses the UN and ILO systems.

<sup>100</sup> The SOC is based on ISCO, while the SIC is based on NACE(Rev.2) (at the four digit level).

<sup>101</sup> [www.bls.gov](http://www.bls.gov).

<sup>102</sup> The coding structure is called the CSA Z-795-96.

actual accidents.<sup>103</sup> Ukraine reported that there was a 4.2 per cent reduction in the number of incidents in 2007. Information from *Sweden* indicates that the most important areas of concern are musculoskeletal injuries and ill-health resulting from stress and psychosocial conditions in the workplace,<sup>104</sup> but that recently published figures indicate a general downward trend in the number of accidents and diseases reported.<sup>105</sup> Malawi reports that available statistics are not up to date, that occupational accidents and dangerous occurrences are significantly underreported and that the diagnosis and determination of the occupational origin of certain diseases represents a challenge.

272. Based on detailed information in national reports that are publicly available, inter alia, on the Internet, the latest ILO estimates, published in 2008, indicate that the global number of work-related fatal and non-fatal accidents and diseases does not seem to have changed significantly in the past ten years. This discrepancy between effort and results has many reasons, many of them brought on by the globalization of the world's economies. A closer look at the statistics shows that, although industrialized countries have seen a steady fall in the number of occupational accidents and diseases, this is not the case in countries currently experiencing rapid industrialization or those too poor to maintain effective national OSH systems and ensure the proper enforcement of legislation. These new estimates were made using available statistics for the year 2003.<sup>106</sup> Fatal occupational accidents for 2003 are estimated at about 358,000, a very slight increase from the 2001 figure. However non-fatal occupational accidents seem to have increased to about 337 million per year. Fatal work-related diseases on the other hand show a slight decrease to 1.95 million per year.<sup>107</sup>

### Estimated number of work-related fatal and non-fatal accidents and diseases

Year	Work-related fatal accidents	Accidents causing $\geq 4$ days' absence from work (million)	Work-related fatal diseases (million)
2001	351 000	268	2.03
2003	358 000	337	1.95

Source: ILO: *Beyond deaths and injuries: The ILO's role in promoting safe and healthy jobs* (Geneva, 2008).

<sup>103</sup> In 2007, in a direct request to the Government of Iceland concerning Convention No. 155, the Committee of Experts requested the Government to continue to provide relevant statistical data regarding the accident rate in the workplace, including, as appropriate, a more detailed analysis of the causes for the increase in the accident rate.

<sup>104</sup> In 2006, in a direct request to the Government of *Sweden*, the Committee of Experts noted the information provided and the measures taken to address the problem including the efforts to increase the efficiency of national measures in this area, inter alia, through the creation of a new single competent authority (the Work Environment Authority) and requested the Government to provide further information on the impact of all measures taken in order to curb the rise in the number of occupational and stress-related illnesses including, in particular, musculoskeletal injuries and ill-health resulting from stress and psychosocial conditions.

<sup>105</sup> In the past year (2007), approximately 20 per cent of the Swedish active workforce reports to have had problems caused by the working environment. This is a reduction of approximately 3 per cent over the past two years. See [www.av.se/pressrum/pressmeddelanden/2008/2008-09-18.aspx](http://www.av.se/pressrum/pressmeddelanden/2008/2008-09-18.aspx).

<sup>106</sup> Updated figures of global estimates of occupational accidents and work-related diseases Päivi Hämäläinen, Tampere University of Technology, Institute of Occupational Safety Engineering, PO Box 541, FIN-33101 Tampere, Finland, tel.: +358 3 3115 2507, fax: +358 3 3115 2671, email: [paivi.hamalainen@tut.fi](mailto:paivi.hamalainen@tut.fi).

<sup>107</sup> ILO: *Beyond deaths and injuries: The ILO's role in promoting safe and healthy jobs*, Introductory report for discussion at the XVIII World Congress on Safety and Health at Work, held in June 2008 in Seoul, Republic of Korea (Geneva, 2008), at [www.ilo.org/public/english/protection/safework/wdcongrs18/safework\\_report.pdf](http://www.ilo.org/public/english/protection/safework/wdcongrs18/safework_report.pdf).



273. The rise in non-fatal accidents is partly explained by an increase of the economically active population globally and, in some regions, by the increase of total employment. The data sets used for the calculations cover also more countries than in calculations for previous periods. Deaths caused by hazardous substances have almost doubled to about 651,000.<sup>108</sup> The main reason for this increase is that the number of cases of chronic obstructive pulmonary diseases have been found to be much higher than previous estimates. When these factors are taken into account, the new estimates may in fact represent only a more accurate evaluation of the situation in 2001.

274. In summary, there are many differences within and between countries as to statistical data gathering and analysis in relation to OSH. This includes differences of definitions, compilation and classification. This means that the ILO lacks accurate tools in order to provide a clear, up to date global picture of OSH for the benefit of member States. The present data do not allow for comprehensive international comparisons. The lack of such data also hampers the development of focused ILO strategies and their continued improvement on a global basis.

275. The Committee strongly recommends that the Office develop a promotional strategy to encourage and give assistance to member States to compile and provide statistical information using unified international classification schemes such as those annexed to the resolution concerning statistics of occupational injuries adopted by the 16th International Conference of Labour Statisticians (October 1998). At the same time the Committee recommends that the Office develop a promotional strategy to increase the number of ratifications of the Protocol by member States.

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<sup>108</sup> T. Driscoll et al.: “The global burden of disease due to occupational carcinogens”, in *American Journal of Industrial Medicine*, Vol. 48, pp. 419–431.

## Chapter IV

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### Impact, obstacles and prospects for further ratifications

#### 1. The Convention and the Recommendation

276. Twenty-seven years after its adoption, Convention No. 155 has been ratified by 52 countries. Five countries have also ratified the Protocol to the Convention, adopted in 2002.

277. The available information shows clearly that a large number of countries, in all regions of the world, have established or are in the process of establishing progressively a national policy process as prescribed in the Convention and the Recommendation. As detailed above, this is the case for most of the 52 countries that have ratified the Convention, but it is also the case for a large number of non-ratifying member States.

278. At least 21 countries that have not ratified the Convention report that the Convention has been or is being taken into account in ongoing efforts to improve national OSH legislation and practice.<sup>1</sup> Congo, for example, reports that steps are being taken towards the ratification of both the Convention and the Protocol and that, since the adoption of the Convention, it has promulgated a number of decrees related to OSH and has amended its Labour Code. Egypt reports, more generally, that their new Labour Code has been adopted to take into account technological progress and to ensure conformity with ILO Conventions, while Thailand reports that, in the context of the development of its national policy, the Convention is an ideal to strive towards. Furthermore, the Government of Sri Lanka states that proposed legislation on safety, health and welfare at work, which is being finalized for parliamentary adoption, has been elaborated on a tripartite basis and was modelled on the Convention, the Protocol and the Recommendation.

279. Over the past five years new and comprehensive OSH legislation has been or is being finalized in 22 countries.<sup>2</sup> These adaptations of national law appear to pave the way for a future ratification of the Convention. The ratification prospects are reported to have been discussed in almost half of the non-ratifying member States responding to this survey. Such discussions have resulted in formal decisions to initiate the ratification

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<sup>1</sup> Including Bahrain, Congo, Cyprus, Egypt, Eritrea, Estonia, Greece, Guatemala, Jordan, Latvia, Lebanon, Lithuania, Malawi, Morocco, Namibia, Qatar, Sri Lanka, Suriname, Syrian Arab Republic, Thailand and Trinidad and Tobago.

<sup>2</sup> *Australia, Bosnia and Herzegovina, China, Ireland, Italy, Kazakhstan, Lithuania, The former Yugoslav Republic of Macedonia, Mauritius, Netherlands, Norway, Peru, Romania, Serbia, Seychelles, Singapore, Slovenia, Spain, United Republic of Tanzania, Trinidad and Tobago, Bolivarian Republic of Venezuela and Viet Nam.* Draft acts are being finalized in Kiribati, Sri Lanka, Turkey and Zambia.

process in two countries (Belgium<sup>3</sup> and Trinidad and Tobago). Another 11 countries<sup>4</sup> report their intention to do so. Among these, Bahrain, Madagascar and Mali indicate that a national policy has yet to be developed, and Mozambique reports that, although national law and practice is not entirely consistent with some of the provisions of the Convention, there are no major obstacles to its ratification.

280. A group of 16 countries<sup>5</sup> report that discussions are taking place regarding a possible ratification of the Convention, the obstacles that may have been identified, and the efforts required to remove them. Three countries report that an agreement with the social partners, in particular the employers, has not yet been secured for initiating ratification procedures. This is the case in Eritrea and Guatemala, and also in India, where the union Bharatiya Mazdoor Sangh (BMS) reported that the real obstacle to ratification is that many employers in the country are not ready to take up the financial burden of OSH. The BMS and the CITU both consider that the Indian Government has not made any sincere efforts towards the ratification of the Convention. In Qatar and Thailand, further discussions with the social partners are required. In Bahrain, Jordan, Madagascar and Mali, ratification would follow the adoption of a national policy in this area. Azerbaijan is implementing a programme on the development of social protection (2008–13) of the population with the assistance of the World Bank involving, inter alia, a revision of national OSH legislation.

281. Some countries see the lack of conformity between national legislation and specific provisions of the Convention as an obstacle to ratification. For example, Kiribati referred in this regard to Articles 4, 7 and 11(e); Lebanon referred to Articles 7 and 11(b); Austria referred to Article 9(2); Canada (Saskatchewan) and Egypt referred to Article 12; France and Sri Lanka referred to Articles 13 and 19(f); Austria, Lebanon and Mauritius<sup>6</sup> referred to Article 14; and Canada (Commonwealth and Newfoundland and Labrador) referred to Article 16(3). Honduras indicated that Articles 4 and 11(c) and (e) could be complied with and the Convention ratified after consultations with employers' and workers' organizations.

282. Ecuador considers that a national OSH policy has to be adopted and implemented, the national OSH system coordinated and the tripartite OSH committee strengthened before they can consider ratifying the Convention. Malaysia, Namibia, Suriname and the United Kingdom refer more generally to a need for legislative amendments. In Namibia, such amendments are reported to be particularly cumbersome due to fragmented legislation and in the United Kingdom they are reported to be small, but resource intensive. Argentina, Burkina Faso, Peru,<sup>7</sup> Singapore and Yemen have indicated that they saw no obstacles to ratification but did not provide any further information as to whether they would proceed to ratify the Convention. Some countries refer to their ratification intentions with respect to other ILO instruments on OSH, such as Convention

<sup>3</sup> The Government of Belgium stated that a law concerning the ratification of the Convention was approved on 3 June 2007 and will be published officially as soon as the federal authorities have given their assent.

<sup>4</sup> Bahrain, Congo, Lebanon, Madagascar, Mali, Mauritius, Mozambique, Philippines, Syrian Arab Republic, Yemen and Zambia.

<sup>5</sup> Azerbaijan, Canada, Egypt, France, Greece, India, Iraq, Malaysia, Namibia, Pakistan, Poland, Qatar, Romania, Thailand, Tunisia and Yemen.

<sup>6</sup> In this respect, the Mauritius Employers' Federation indicates that the ratification of the Convention cannot be envisaged since Mauritius will not be able to comply with the numerous provisions contained therein at its current stage of the national economic and social development.

<sup>7</sup> In this regard the Chamber of Commerce of Lima indicated that national OSH legislation regulates OSH issues in the country even if ILO instruments have not been ratified.

No. 184,<sup>8</sup> and Convention No. 187.<sup>9</sup> This shows the comprehensive and interdependent nature of international labour standards on OSH. The remaining respondents (non-ratifying member States) either indicate that the possibility of ratifying the Convention has not been considered or do not provide any information on this question.<sup>10</sup>

283. As regards the effect given to the Recommendation, the provisions of which are closely related to those of the Convention, reference has been made to the national law and practice in relation thereto throughout this General Survey. Many countries, in particular those which are technologically advanced, report that effect has been given, in law and in practice, to virtually all the provisions of the Recommendation, including its Paragraphs 3 and 4 on a national OSH policy. Most of these countries have chosen not to report in detail on the effect given to these Paragraphs, as the corresponding legislation often is voluminous.

## 2. The Protocol

284. Comparatively less information was provided as regards the effect given to the issues covered by the Protocol.<sup>11</sup> Among those responding, *Cyprus* has just removed an obstacle to ratification by introducing a requirement to notify commuting accidents and is considering ratification of the Protocol. *Portugal* indicates that the draft decree approving the ratification of the Protocol is under public discussion.<sup>12</sup>

285. Another 13 countries report that they are in the process of considering the ratification of the Protocol.<sup>13</sup> Some have made reference to discussions on evaluating the need for modifications to enable ratification.<sup>14</sup> Among these, Lebanon indicated a need for technical assistance to develop its national system related to statistics. As for those that have considered ratification, eight countries<sup>15</sup> state that they have found minor or no obstacles to ratification. Belgium, Estonia and *Latvia* indicated that a tripartite agreement had to be negotiated before ratification could be initiated.

<sup>8</sup> Philippines.

<sup>9</sup> The ratification procedure is in the final stages in nine countries (Austria, Belgium, Burkina Faso, *Denmark*, *Republic of Moldova*, *Mongolia*, Philippines, *Serbia* and Singapore) and is considered favourably in another nine countries (*Australia*, Cameroon, *Cyprus*, Lithuania, Malawi, Peru, *Seychelles*, Syrian Arab Republic and Zambia).

<sup>10</sup> JTUC-RENGO of Japan indicates that the labour minister has been pressing the central Government to ratify the Convention and has called upon it not only during tripartite meetings on ILO issues, but also directly. However, the Government has not replied or provided a progress report on its efforts towards ratification.

<sup>11</sup> Only 21 countries responded specifically to this question.

<sup>12</sup> In this respect, the Confederation of Trade and Services of Portugal (CCSP) has indicated that the provisions of the Protocol are already incorporated into national legislation. The Confederation of Portuguese Industry (CIP) has serious reservations concerning Portugal's ratification of the Protocol, as it considers that the provisions of the Protocol are too vague or inappropriate.

<sup>13</sup> *Australia*, Congo, *Latvia*, Lebanon, Malaysia, Mali, Mauritius, Mozambique, Namibia, Qatar, Poland, Romania and Thailand.

<sup>14</sup> Lebanon, Namibia, Qatar and Suriname.

<sup>15</sup> *Australia*, *Brazil*, Belgium, Congo, *Latvia*, Singapore, *Slovenia* and the United States.

286. A number of countries <sup>16</sup> have identified specific obstacles to the ratification of the Protocol, predominantly linked with Articles 2, 4(a) and (b), 6 and 7. <sup>17</sup> The information available indicates that much still needs to be done in order to achieve the intended harmonization of recording and notification processes and that many countries report specifically that the requirements regarding the production of national statistics are an obstacle to the ratification of the Protocol.

### 3. ILO assistance to support member States and the social partners

287. Cooperation with other international organizations and bodies involved in various fields related to OSH is an effective way of ensuring that ILO values in this area are taken into account in the development of related international instruments and technical standards. Through international collaboration, the ILO is at the centre of global networks and alliances which are vital for maintaining the currency of its technical knowledge bases, as well as for influencing those of its partners. <sup>18</sup> As regards the ILO's more targeted advisory and technical assistance to support member States and the social partners' activities in the area of OSH, the ILO has, in recent years, followed a coherent strategy focused on enhancing the impact of the standards system. <sup>19</sup> Assistance has been provided to a number of countries for the development of national OSH profiles, <sup>20</sup> the adoption of OSH policies and the implementation of national OSH programmes, <sup>21</sup> the aim being for these countries to assess the national situation as the first step before taking action to improve national systems through focused programmes. The ratification and effective implementation of ILO OSH standards, particularly Convention No. 155 together with Convention No. 187, is promoted in all regions of the world, inter alia,

<sup>16</sup> Cyprus, Jordan, Kiribati, Lebanon, Mauritius, Namibia, Qatar and Thailand.

<sup>17</sup> In this respect, Canada (at the federal and provincial levels), Mauritius and Sri Lanka have identified obstacles to ratification regarding Article 2 and Article 4(a)(i) on the recording and notification of commuting accidents. In Sri Lanka, the Ceylon Federation of Trade Unions and the Lanka Jathika Estate Workers' Union supported the ratification of both the Convention and the Protocol. Mauritius identified Article 3(a)(ii) on information to workers and their representatives concerning the recording system as an obstacle to ratification; Japan and Mauritius identified Article 4(a)(ii) on information to workers and their representatives concerning notified cases as an obstacle; Belgium identified Article 4(a) requiring the employer to notify occupational diseases as an obstacle; Mauritius identified Article 4(b) on the notification of occupational accidents and occupational diseases by insurance institutions and occupational health services as an obstacle; and finally Jordan, Lebanon and Namibia identified Articles 6 and 7 regarding statistics as an obstacle.

<sup>18</sup> See summary of ongoing international collaboration on OSH: XVIII World Congress on Safety and Health at Work – Introductory report – *Beyond death and injuries: The ILO's role in promoting safe and healthy jobs*, Geneva, ILO, 2008, pp. 12–15.

<sup>19</sup> Since the adoption of the 2003 Global Strategy on Occupational Safety and Health: [www.ilo.org/public/english/protection/safework/globstrat\\_e.pdf](http://www.ilo.org/public/english/protection/safework/globstrat_e.pdf); and, as of 2008, taking into account the Declaration on Social Justice for a Fair Globalization: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms\\_099766.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_099766.pdf).

<sup>20</sup> Many countries have developed national OSH profiles or are in the final stages of doing so, including: *Algeria, Azerbaijan, Bahamas, Barbados, Bosnia and Herzegovina, Bulgaria, Cambodia, Chile, China, Costa Rica, Cuba, Dominican Republic, Ethiopia, Guatemala, Gabon, Jamaica, Jordan, Lao People's Democratic Republic, The former Yugoslav Republic of Macedonia, Mexico, Republic of Moldova, Montenegro, Romania, Serbia, Suriname, Tajikistan, Tunisia, Trinidad and Tobago, and Uzbekistan.*

<sup>21</sup> For example, *Albania, China, Croatia, Indonesia, Kazakhstan, Lao People's Democratic Republic, The former Yugoslav Republic of Macedonia, Republic of Moldova, Mongolia, Montenegro, Serbia, Seychelles, Thailand and Viet Nam.*

through meetings and workshops.<sup>22</sup> Technical cooperation activities on approaches to improve national OSH policies and strategies have been carried out in Costa Rica, Dominican Republic, Guatemala and *Nigeria* (adopted a new policy) and assistance on the establishment of mechanisms to improve national OSH systems have been provided in *Algeria* (creation of a new national OSH institute), *Serbia* (creation of a new OSH directorate), Sri Lanka (integrated labour inspection system). ILO assistance has been requested recently by Mali to elaborate a national OSH policy. The provision of training in various areas of OSH has also been an important element of technical cooperation. OSH courses have been provided by the ILO Turin International Training Centre. In the area of labour inspection, the ILO has collaborated with the International Association of Labour Inspection (IALI) to develop OSH training materials, such as the Integrated Labour Inspection Training System, designed to help countries develop and improve their own training programmes for labour inspectors. Training workshops for inspectors have also been held in many countries.<sup>23</sup>

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<sup>22</sup> For example in Afghanistan, Burkina Faso, Egypt, *Ethiopia*, Niger, Peru, *Seychelles*, Togo and Zambia on Convention No. 187; *China* on Convention No. 155; Sudan on Conventions Nos 170 and 187; and ASEAN, South Asia and the Arab States region on Convention No. 187.

<sup>23</sup> *Cuba*, *Croatia*, Egypt, *Ethiopia*, *Fiji*, Lao People's Democratic Republic, *Mexico*, *Republic of Moldova*, *Montenegro*, Romania, *The former Yugoslav Republic of Macedonia*, *South Africa*, Uzbekistan, Ukraine and *Viet Nam*.

## Chapter V

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### Concluding remarks

288. The Committee welcomes the opportunity to carry out a comprehensive examination of progress in the area of OSH and, more particularly, of the effect given by member States to the provisions of the Convention, its Protocol and Recommendation. It hopes that this review will contribute to a better understanding of their requirements, shedding light on their essential purpose, assessing their impact on national laws, regulations and practice in this area, and to the resolution of obstacles to ratification and implementation. The large number of responses to this survey is a measure of an increasing awareness of the importance of OSH by ILO member States. The abundant and detailed information provided by governments has enabled the Committee to get a good and reliable picture of policy and of institutional and legislative progress since 1981.

289. The limited access to other sources of information, in particular statistical data or legal decisions, has, however, prevented the Committee from drawing general and definite conclusions as regards their application in practice. Observations from organizations of employers and workers have, in some cases, provided further insight concerning application in practice, and difficulties related thereto. Unfortunately, the number of such comments was relatively low. The Committee would have wished to receive more information on a subject of such importance for the social partners.

#### 1. The continuing relevance of the instruments

290. The fundamental goals of the instruments under consideration are to prevent the occurrence of occupational accidents and diseases and to establish an increasingly safe and healthy working environment through progressive concerted action, both at the national and enterprise levels, with the full involvement of all stakeholders. ***These international standards constitute a blueprint for setting up and implementing national OSH systems that are comprehensive and adaptable to national conditions. The strategy they advocate calls for action in four main areas: first***, the formulation, implementation and periodical review of a national OSH policy expressing the political will to undertake comprehensive and coherent regulatory, enforcement and promotional action in this area; ***second***, the promotion of social dialogue through the full participation, collaboration and cooperation at all levels of employers, workers and their respective organizations, as well as other stakeholders; ***third***, the definition of the respective functions, responsibilities, rights and duties of the social partners; and, ***fourth***, the development and dissemination of knowledge, education training measures and of information.

291. Despite the complexity of regulating the numerous scientific, socio-economic and technical elements of OSH and the resources that are required, ***the survey shows that many member States, whether or not they have ratified the Convention, are making***

*increasing efforts to give effect to the provisions, not only of the Convention and its Protocol of 2002, but also of the Recommendation. In addition, a significant number of countries, particularly among the developing countries, report that they are in the process of elaborating or updating their national policies and strategies, as well as their regulatory and enforcement systems. Furthermore, many countries are focusing their actions in the area of OSH on a number of emerging issues such as stress and MSDs, assistance to SMEs and promotion of best practices.*

292. In this survey, the Committee has discussed the importance and relevance of flexibility clauses and, in particular, the exclusion clauses in Article 1(2) and Article 2(2). The Committee has stressed that, where the flexibility clauses have been used, they should be reviewed with a view to extending OSH protection to excluded categories of workers or branches of economic activity. The Committee has emphasized that the excluded categories should not be regarded as permanently excluded and that the clauses themselves anticipate that member States would progress towards expansion of coverage of the Convention to embrace such workers. Article 1(3) and Article 2(3) require member States to report on progress made towards a wider application of the Convention. There appears to be a level of complacency in respect of the initial exclusions, such that little change appears to have occurred to the exclusions over time. ***The Committee recommends that the Office give an increased focus to these categories and encourage member States to review and report on the categories in order to ascertain whether the exclusions should no longer apply, or apply in a more limited manner, having regard to changed circumstances or as part of the implementation of a more coherent national policy. This should, of course, be done in consultation with the social partners as provided for in the Articles.***

293. The survey information supports the fact that the standards at issue have a place at the heart of national action in this area. Many of the countries surveyed reported that ILO OSH standards have been, and continue to be, used as references in the development and strengthening of their national OSH systems, and an increasing number of countries consider that they have reached a stage when the Convention can be ratified. ***The number of member States that have ratified the Convention has increased steadily since its adoption and, given the number of declared intentions to ratify this instrument, that pace should accelerate. This is a clear indication not only of a continued, but also increasing, relevance of the Convention in this era of rapid global socio-economic and technological changes.***

294. The comprehensive, progressive and flexible features of the instruments at issue are premised on the management of OSH. Furthermore, in the context of applying an integrated approach to its standard-related activities in the area of OSH, the ILO recognized in 2003 that, with the globalization of the world's economies, further promotion of the importance of achieving decent, safe and healthy working conditions and environment as an important element of social justice was urgently needed. This led to the adoption in 2006 of Convention No. 187 and Recommendation No. 197. The list of instruments in the annex to Recommendation No. 197, which has replaced the list of instruments annexed to Recommendation No. 164, are widely regarded as a comprehensive and valid reference for international, national and enterprise action to establish safer and healthier working conditions and environment. While integrating and reaffirming the policy, principles and processes defined in Convention No. 155 and Recommendation No. 164, the 2006 instruments provide further guidance on how to develop the national policy envisaged in Article 4 of Convention No. 155 and how to start up the virtuous cycle of continuous improvements based on a periodic review of policy and action. ***These instruments underline the importance of applying a systems***



*approach to the management of OSH, and of progressively establishing and maintaining the long-term goal of a preventative safety and health culture through constant awareness raising, training, education and information. They also provide a framework for existing OSH standards by, inter alia, providing for the development of approaches to measure progress in this area. The steadily increasing ratification rate of Convention No. 187 is a further indication of the increasing support by the tripartite constituents of the ILO's action in the area of OSH.*

295. Given the continued relevance of Convention No. 155 as a blueprint for mapping the various building blocks of national OSH systems and defining the respective functions, responsibilities, duties and rights of the social partners, ***further efforts, including the provision of technical assistance, as required, should be made to promote the ratification of Convention No. 155, together with Convention No. 187.***

296. The importance of reliable data on occupational accidents and diseases has been noted repeatedly in this survey. Convention No. 155 places an obligation on member States to formulate, implement and review a coherent national policy and measure its progress and impact for improving the safety and health of workers in the workplace. Regardless of whether the Protocol has been ratified, effective data collection and its analysis by a member State is a critical function in order to identify priority areas for OSH action, including the resources and training needed to address deficiencies and later to assess the effectiveness of the action taken. The Protocol is an instrument which has the additional capacity, when implemented, to allow improved methods for data collection for the benefit of individual member States, as well as the harmonization of the data collection and its availability for global comparability. ***The Committee strongly recommends that the Office develop a promotional strategy to encourage and give assistance to member States to compile and provide statistical information using unified international classification schemes such as those annexed to the resolution concerning statistics of occupational injuries adopted by the 16th International Conference of Labour Statisticians (October 1998). At the same time, the Committee recommends that the Office develop a promotional strategy to increase awareness of the Protocol among member States to enable them to review their ability to ratify and implement it. It urges governments to respond favourably.***

## 2. Addressing a continuing challenge

297. Despite the undeniable advances observed in the areas of policy development, institutional arrangements and legislative capacities, an estimated 2 million work-related fatalities and 330 million work-related accidents still occur each year. The implementation of preventive and protective measures at the workplace is a complex and continuous process that requires not only technical knowledge and skills adapted to the scale and specific activities of undertakings, but also a preventative safety and health culture. It must be recognized that for many countries addressing all relevant OSH issues that arise in a context of increasingly rapid socio-economic and technological changes is a formidable challenge.

298. The Committee notes that micro-enterprises and SMEs would benefit from increased efforts by the competent authorities to ensure and facilitate their access to guidance, advice and training on practical, economical and easily applicable OSH measures. As regards multinational enterprises (MNEs), the Committee refers to the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO–MNE Declaration) which provides that MNEs should maintain the highest standards of safety and health. ***Bearing in mind their relevant experience within the***

*enterprise as a whole, as well as its supply chain, including knowledge of special hazards, the Committee encourages MNEs to promote the management of safety and health at work by sharing information and extending their training capacities to assist smaller enterprises in implementing at least basic preventative and protective measures.*

299. OSH initiatives and tools from enterprises and, in particular, from MNEs, play an important and positive role in the economies of most countries and in international economic relations and have contributed to promoting greater corporate social responsibility and accountability for health and safety. Several MNEs have already adopted voluntary initiatives in the OSH area which go beyond compliance with national law. *The Committee recognizes the positive contribution which enterprises, including MNEs, can make to enhance OSH in the workplace, and economic and social progress. The Committee considers that enterprises should play a leading role in the examination of causes of OSH hazards and in the application of resulting improvements within the enterprise as a whole. They should cooperate fully with the competent safety and health authorities, established safety and health organizations, as well as with workers' representatives and their organizations. The Committee is also of the view that OSH is an area where corporate social responsibility of enterprises can play an important role in putting in place effective OSH strategies at the workplace.*

300. The Committee notes that the application of national labour laws and OSH legislation to the informal economy, where a large part of the world's labour force works, is one of the most important challenges facing many countries. At the same time, the Committee is of the view that OSH provides possibly the easiest entry point for the extension of basic labour protection including basic OSH measures. It encourages governments to give consideration to designing and implementing strategies and programmes that could extend protection to or enhance protection of these workers. This could include putting into place basic infrastructures such as electricity and water and designing simple campaigns targeting basic OSH measures. *The Committee hopes that governments will give due consideration to the need to design and implement specific measures to extend OSH protection to the informal economy. International and national organizations of employers and workers could also consider providing support in this area through awareness raising and promotional action.*

301. Social dialogue is a central prerequisite for successful OSH action at the enterprise level. Information provided by employers' and workers' organizations to surveys, such as the present one, is very important, as the social partners are the best source of information on how ILO standards, particularly those related to OSH, are implemented in practice. *Continuous attention by employers' and workers' organizations to these issues is essential for an effective implementation of OSH requirements at the workplace. Increased attention should be given to awareness raising and promotional efforts in this area, not only by governments but also by organizations of employers and workers.*

302. The building of OSH capacities is a permanent effort and, although the Committee in comments made over the years, as well as in this survey, has been able to note significant progress in a large number of countries, progress is still needed in many areas, such as strengthening labour inspectorates, as well as other related labour enforcement mechanisms; improving the collection and quality of occupational accident and disease data; increasing efforts to assess the hazards and risks associated with chemicals; assessing the impact of work organization changes on workers' health; addressing important issues such as MSDs and stress at work; and the continuing occurrence of very

basic life-threatening hazards faced by untrained workers in many countries. Furthermore, training on OSH should be provided in a context of an information, education and communication strategy to raise awareness of groups of workers concerned and to limit the risks to their safety and health. ***The Committee considers that the provision of wider access to training and adequate information and the integration of OSH at all levels of education is one of the most essential means to achieve decent, safe and healthy working conditions and environment.***

303. Apart from the development of appropriate strategies and practical guidance, and to provide interested parties with access to information and training material, inter alia, through the ILO web site, the Committee notes that the ILO is currently focusing a large part of its technical cooperation programmes in this area, in particular, on providing member States with assistance in the preparation of national OSH profiles and on the implementation of national OSH programmes. ***The Committee considers that, in the context of the ongoing ILO work to elaborate decent work indicators, the development of a specific set of OSH sub-indicators, using the national OSH profiles as a baseline, would provide countries with a very useful tool for periodically assessing progress in improving the effectiveness of their national and enterprise OSH systems. Such linkage would ensure the full integration of OSH issues in decent work objectives.***

304. The Committee also wishes to highlight the economic dimension of putting in place and effectively implementing OSH measures at the workplace. Where such measures have been taken, evidence indicates that they represent savings to enterprises as regards insurance and compensation costs and have enhanced their productivity and competitiveness. The Committee notes, however, that the development of reliable cost-benefit analyses are hampered by difficulties related, inter alia, to the valuation of OSH-related benefits and to the lack of sufficient and relevant data, in particular, from developing countries. ***The Committee urges the ILO to pursue its research in this area and to develop effective methodologies to evaluate the costs and benefits of effective implementation of preventive OSH measures, with a particular emphasis on methodologies adapted to the needs of developing countries.***

305. Cooperation with other international organizations and bodies involved in various fields related to OSH is an effective way of ensuring that ILO values in this area are taken into account in the development of related international instruments and technical standards. Through international cooperation, the ILO is at the centre of global networks and alliances which are vital for maintaining the currency of its technical knowledge bases, as well as for influencing those of its partners. Such cooperation provides opportunities for employers' and workers' experts to influence the shaping of standards and outputs developed in the context of inter-organization work. It is also very effective in ensuring avoidance of duplication of efforts and supporting the complementarities of mandates, particularly in a complex field such as OSH. ***The ILO should continue and further increase its efforts in strengthening its international cooperation activities as an effective means of promoting ILO standards and tripartite consensus-based approaches, and keeping up with scientific and technological developments pertaining to OSH.***

306. The Committee believes that the promotion of OSH is a shared responsibility. Governments, employers and workers and their organizations all have a role to play. ***It is therefore imperative that all these parties cooperate in developing and enhancing measures for social protection and healthy and safe working conditions as provided, inter alia, in the Declaration of Philadelphia and confirmed by the ILO Declaration on Social Justice for a Fair Globalization. The Committee considers that it is equally important for all parties to cooperate in promoting a preventative safety and health***

*culture as advocated in the Promotional Framework for Occupational Safety and Health Convention (No. 187), and Recommendation (No. 197), and for which Convention No. 155, its 2002 Protocol and Recommendation No. 164 have laid the foundation. These instruments continue to have a defining role. Together with the ILO's most recent instruments in this field, they should be promoted and given effect to as a matter of priority.*

# Appendix I

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## List of ratifications

### Convention No. 155 and the Protocol of 2002

Adopted at the 67th Session of the ILC, 1981,  
and the 90th Session, 2002, respectively

Country	Ratification date	Country	Ratification date
Albania *	09.02.2004	Luxembourg *	21.03.2001
Algeria	06.06.2006	The former Yugoslav Republic of Macedonia	17.11.1991
Antigua and Barbuda	16.09.2002	Mexico	01.02.1984
Australia	26.03.2004	Republic of Moldova	28.04.2000
Belarus	30.05.2000	Mongolia	03.02.1998
Belize	22.06.1999	Montenegro	03.06.2006
Bosnia and Herzegovina	02.06.1993	Netherlands	22.05.1991
Brazil	18.05.1992	New Zealand	12.06.2007
Cape Verde	09.08.2000	Nigeria	03.05.1994
Central African Republic	05.06.2006	Norway	22.06.1982
China	25.01.2007	Portugal	28.05.1985
Croatia	08.10.1991	Russian Federation	02.07.1998
Cuba	07.09.1982	Sao Tome and Principe	04.05.2005
Cyprus	16.01.1989	Serbia	24.11.2000
Czech Republic	01.01.1993	Seychelles	28.10.2005
Denmark	10.07.1995	Slovakia	01.01.1993
El Salvador *	12.10.2000	Slovenia	29.05.1992
Ethiopia	28.01.1991	South Africa	18.02.2003
Fiji	28.05.2008	Spain	11.09.1985
Finland *	24.04.1985	Sweden *	11.08.1982
Hungary	04.01.1994	Turkey	22.04.2005
Iceland	21.06.1991	Uruguay	05.09.1988
Ireland	04.04.1995	Bolivarian Republic of Venezuela	25.06.1984
Kazakhstan	30.07.1996	Viet Nam	03.10.1994
Republic of Korea	20.02.2008	Zimbabwe	09.04.2003
Latvia	25.08.1994		
Lesotho	01.11.2001		

\* Has ratified the Protocol of 2002.

Source: ILOLEX – 12 December 2008.

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## Appendix II

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### **Table of reports due and received on Convention No. 155, Recommendation No. 164 and the Protocol of 2002 to Convention No. 155 under article 19 of the ILO Constitution (as at 12 December 2008)**

Article 19 of the Constitution of the International Labour Organization provides that Members shall “report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body” on the position of their law and practice in regard to the matters dealt with in unratified Conventions and Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the abovementioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 19, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 218th Session (November 1981), the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation at the Conference the originals of all reports received and that copies of reports would be available to members of delegations on request.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

From then on, reports received under article 19 of the Constitution appear in simplified form in a table annexed to Report III (Part 1B) of the Committee of Experts.

Requests for consultation or copies of reports may be addressed to the secretariat of the Conference Committee on the Application of Standards.

The reports, which are listed below, refer to the Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164) of 1981 and the Protocol of 2002 to Convention No. 155.

<b>Member States</b>	<b>Convention No. 155</b>	<b>Protocol of 2002</b>	<b>Recommendation No. 164</b>
Afghanistan	–	–	–
Albania	<i>Ratified 09.02.2004</i>	<i>Ratified 09.02.2004</i>	<b>Received</b>
Algeria	<i>Ratified 06.06.2006</i>	<b>Received</b>	<b>Received</b>
Angola	–	–	–
Antigua and Barbuda	<i>Ratified 16.09.2002</i>	<b>Received</b>	<b>Received</b>
Argentina	<b>Received</b>	<b>Received</b>	<b>Received</b>
Armenia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Australia	<i>Ratified 26.03.2004</i>	<b>Received</b>	<b>Received</b>
Austria	<b>Received</b>	<b>Received</b>	<b>Received</b>
Azerbaijan	<b>Received</b>	<b>Received</b>	<b>Received</b>
Bahamas	–	–	–
Bahrain	<b>Received</b>	<b>Received</b>	<b>Received</b>
Bangladesh	–	–	–
Barbados	–	–	–
Belarus	<i>Ratified 30.05.2000</i>	<b>Received</b>	<b>Received</b>
Belgium	<b>Received</b>	<b>Received</b>	<b>Received</b>
Belize	<i>Ratified 22.06.1999</i>	–	–
Benin	–	–	–
Bolivia	–	–	–
Bosnia and Herzegovina	<i>Ratified 02.06.1993</i>	–	–
Botswana	–	–	–
Brazil	<i>Ratified 18.05.1992</i>	<b>Received</b>	<b>Received</b>
Brunei Darussalam	–	–	–
Bulgaria	<b>Received</b>	<b>Received</b>	<b>Received</b>
Burkina Faso	<b>Received</b>	<b>Received</b>	<b>Received</b>
Burundi	–	–	–
Cambodia	–	–	–
Cameroon	<b>Received</b>	<b>Received</b>	<b>Received</b>
Canada	<b>Received</b>	<b>Received</b>	<b>Received</b>
Cape Verde	<i>Ratified 09.08.2000</i>	–	–
Central African Republic	<i>Ratified 05.06.2006</i>	–	–
Chad	–	–	–
Chile	–	–	–
China	<i>Ratified 25.01.2007</i>	<b>Received</b>	<b>Received</b>
Colombia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Comoros	–	–	–
Congo	<b>Received</b>	–	–
Costa Rica	<b>Received</b>	<b>Received</b>	<b>Received</b>

Table of reports due and received under article 19 of the ILO Constitution

<b>Member States</b>	<b>Convention No. 155</b>	<b>Protocol of 2002</b>	<b>Recommendation No. 164</b>
Côte d'Ivoire	–	–	–
Croatia	<i>Ratified 08.10.1991</i>	<b>Received</b>	<b>Received</b>
Cuba	<i>Ratified 07.09.1982</i>	<b>Received</b>	<b>Received</b>
Cyprus	<i>Ratified 16.01.1989</i>	<b>Received</b>	<b>Received</b>
Czech Republic	<i>Ratified 01.01.1993</i>	–	–
Democratic Republic of the Congo	–	–	–
Denmark	<i>Ratified 10.07.1995</i>	–	–
Djibouti	–	–	–
Dominica	–	–	–
Dominican Republic	<b>Received</b>	<b>Received</b>	<b>Received</b>
Ecuador	<b>Received</b>	<b>Received</b>	<b>Received</b>
Egypt	<b>Received</b>	<b>Received</b>	<b>Received</b>
El Salvador	<i>Ratified 12.10.2000</i>	<i>Ratified 22.07.2004</i>	<b>Received</b>
Equatorial Guinea	–	–	–
Eritrea	<b>Received</b>	<b>Received</b>	<b>Received</b>
Estonia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Ethiopia	<i>Ratified 28.01.1991</i>	–	–
Fiji	<i>Ratified 28.05.2008</i>	–	–
Finland	<i>Ratified 24.04.1985</i>	<i>Ratified 09.12.2003</i>	<b>Received</b>
France	<b>Received</b>	<b>Received</b>	<b>Received</b>
Gabon	–	–	–
Gambia	–	–	–
Georgia	–	–	–
Germany	<b>Received</b>	<b>Received</b>	<b>Received</b>
Ghana	<b>Received</b>	<b>Received</b>	<b>Received</b>
Greece	<b>Received</b>	<b>Received</b>	<b>Received</b>
Grenada	<b>Received</b>	<b>Received</b>	<b>Received</b>
Guatemala	<b>Received</b>	<b>Received</b>	<b>Received</b>
Guinea	–	–	–
Guinea-Bissau	–	–	–
Guyana	–	–	–
Haiti	<b>Received</b>	<b>Received</b>	<b>Received</b>
Honduras	<b>Received</b>	<b>Received</b>	<b>Received</b>
Hungary	<i>Ratified 14.01.1994</i>	<b>Received</b>	<b>Received</b>
Iceland	<i>Ratified 21.06.1991</i>	–	–
India	<b>Received</b>	<b>Received</b>	<b>Received</b>
Indonesia	<b>Received</b>	<b>Received</b>	<b>Received</b>



<b>Member States</b>	<b>Convention No. 155</b>	<b>Protocol of 2002</b>	<b>Recommendation No. 164</b>
Islamic Republic of Iran	<b>Received</b>	–	<b>Received</b>
Iraq	<b>Received</b>	<b>Received</b>	<b>Received</b>
Ireland	<i>Ratified 04.04.1995</i>	–	–
Israel	<b>Received</b>	<b>Received</b>	<b>Received</b>
Italy	<b>Received</b>	<b>Received</b>	<b>Received</b>
Jamaica	–	–	–
Japan	<b>Received</b>	<b>Received</b>	<b>Received</b>
Jordan	<b>Received</b>	<b>Received</b>	<b>Received</b>
Kazakhstan	<i>Ratified 30.07.1996</i>	–	–
Kenya	–	–	–
Kiribati	<b>Received</b>	<b>Received</b>	<b>Received</b>
Republic of Korea	<i>Ratified 20.02.2008</i>	–	–
Kuwait	–	–	–
Kyrgyzstan	–	–	–
Lao People's Democratic Republic	–	–	–
Latvia	<i>Ratified 25.07.1994</i>	<b>Received</b>	<b>Received</b>
Lebanon	<b>Received</b>	<b>Received</b>	<b>Received</b>
Lesotho	<i>Ratified 01.11.2001</i>	–	–
Liberia	–	–	–
Libyan Arab Jamahiriya	–	–	–
Lithuania	<b>Received</b>	<b>Received</b>	<b>Received</b>
Luxembourg	<i>Ratified 21.03.2001</i>	<i>Ratified 08.04.2008</i>	–
Madagascar	<b>Received</b>	<b>Received</b>	<b>Received</b>
Malawi	<b>Received</b>	<b>Received</b>	<b>Received</b>
Malaysia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Mali	<b>Received</b>	<b>Received</b>	<b>Received</b>
Malta	–	–	–
Marshall Islands	–	–	–
Mauritania	–	–	–
Mauritius	<b>Received</b>	<b>Received</b>	<b>Received</b>
Mexico	<i>Ratified 01.02.1984</i>	<b>Received</b>	<b>Received</b>
Republic of Moldova	<i>Ratified 28.04.2000</i>	<b>Received</b>	<b>Received</b>
Mongolia	<i>Ratified 03.02.1998</i>	–	–
Montenegro	<i>Ratified 03.06.2006</i>	<b>Received</b>	<b>Received</b>
Morocco	<b>Received</b>	<b>Received</b>	<b>Received</b>
Mozambique	<b>Received</b>	<b>Received</b>	<b>Received</b>
Myanmar	<b>Received</b>	<b>Received</b>	<b>Received</b>

Table of reports due and received under article 19 of the ILO Constitution

<b>Member States</b>	<b>Convention No. 155</b>	<b>Protocol of 2002</b>	<b>Recommendation No. 164</b>
Namibia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Nepal	–	–	–
Netherlands	<i>Ratified 22.05.1991</i>	<b>Received</b>	<b>Received</b>
New Zealand	<i>Ratified 12.06.2007</i>	<b>Received</b>	<b>Received</b>
Nicaragua	<b>Received</b>	<b>Received</b>	<b>Received</b>
Niger	–	–	–
Nigeria	<i>Ratified 03.05.1994</i>	–	–
Norway	<i>Ratified 22.06.1982</i>	–	–
Oman	–	–	–
Pakistan	<b>Received</b>	–	–
Panama	<b>Received</b>	<b>Received</b>	<b>Received</b>
Papua New Guinea	–	–	–
Paraguay	<b>Received</b>	<b>Received</b>	<b>Received</b>
Peru	<b>Received</b>	<b>Received</b>	<b>Received</b>
Philippines	<b>Received</b>	<b>Received</b>	<b>Received</b>
Poland	<b>Received</b>	<b>Received</b>	<b>Received</b>
Portugal	<i>Ratified 28.05.1985</i>	<b>Received</b>	<b>Received</b>
Qatar	<b>Received</b>	<b>Received</b>	<b>Received</b>
Romania	<b>Received</b>	<b>Received</b>	<b>Received</b>
Russian Federation	<i>Ratified 02.07.1998</i>	–	–
Rwanda	–	–	–
Saint Kitts and Nevis	–	–	–
Saint Lucia	–	–	–
Saint Vincent and the Grenadines	–	–	–
Samoa	–	–	–
San Marino	–	–	–
Sao Tome and Principe	<i>Ratified 04.05.2005</i>	–	–
Saudi Arabia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Senegal	<b>Received</b>	<b>Received</b>	<b>Received</b>
Serbia	<i>Ratified 24.11.2000</i>	<b>Received</b>	<b>Received</b>
Seychelles	<i>Ratified 28.10.2005</i>	–	–
Sierra Leone	–	–	–
Singapore	<b>Received</b>	<b>Received</b>	<b>Received</b>
Slovakia	<i>Ratified 01.01.1993</i>	–	–
Slovenia	<i>Ratified 29.05.1992</i>	<b>Received</b>	<b>Received</b>
Solomon Islands	<b>Received</b>	<b>Received</b>	<b>Received</b>
Somalia	–	–	–

<b>Member States</b>	<b>Convention No. 155</b>	<b>Protocol of 2002</b>	<b>Recommendation No. 164</b>
South Africa	<i>Ratified 18.02.2003</i>	<b>Received</b>	<b>Received</b>
Spain	<i>Ratified 11.09.1985</i>	<b>Received</b>	<b>Received</b>
Sri Lanka	<b>Received</b>	<b>Received</b>	<b>Received</b>
Sudan	–	–	–
Suriname	<b>Received</b>	<b>Received</b>	<b>Received</b>
Swaziland	–	–	–
Sweden	<i>Ratified 11.08.1982</i>	<i>Ratified 15.06.07</i>	<b>Received</b>
Switzerland	<b>Received</b>	<b>Received</b>	<b>Received</b>
Syrian Arab Republic	<b>Received</b>	<b>Received</b>	<b>Received</b>
Tajikistan	–	–	–
United Republic of Tanzania	<b>Received</b>	<b>Received</b>	<b>Received</b>
Thailand	<b>Received</b>	<b>Received</b>	<b>Received</b>
The former Yugoslav Republic of Macedonia	<i>Ratified 17.11.1991</i>	–	–
Timor-Leste	–	–	–
Togo	–	–	–
Trinidad and Tobago	<b>Received</b>	<b>Received</b>	<b>Received</b>
Tunisia	<b>Received</b>	<b>Received</b>	<b>Received</b>
Turkey	<i>Ratified 22.04.2005</i>	–	–
Turkmenistan	–	–	–
Uganda	–	–	–
Ukraine	<b>Received</b>	<b>Received</b>	<b>Received</b>
United Arab Emirates	–	–	–
United Kingdom	<b>Received</b>	<b>Received</b>	<b>Received</b>
United States	<b>Received</b>	<b>Received</b>	<b>Received</b>
Uruguay	<i>Ratified 05.09.1988</i>	<b>Received</b>	<b>Received</b>
Uzbekistan	–	–	–
Vanuatu	–	–	–
Venezuela, Bolivarian Republic of	<i>Ratified 25.06.1984</i>	<b>Received</b>	<b>Received</b>
Viet Nam	<i>Ratified 03.10.1994</i>	–	–
Yemen	<b>Received</b>	<b>Received</b>	<b>Received</b>
Zambia	<b>Received</b>	–	–
Zimbabwe	<i>Ratified 09.04.2003</i>	<b>Received</b>	<b>Received</b>

## Appendix III

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### Legislative texts by country <sup>1</sup>

#### *Albania*

1. Constitution Act (Chapter VIII)
2. Act No. 7961 of 12 July 1995 on the Labour Code, as amended by Act No. 8085 of 13 March 1996, and Act No. 9125 of 29 July 2003
3. Act No. 9634 of 30 October 2006 on Labour Inspection and the State Labour Inspectorate
4. Ministerial Order No. 1830 of 4 October 2007 to draw up a national policy on OSH

#### *Algeria*

1. Act No. 88-07 of 26 January 1988 on occupational hygiene, safety and medicine
2. Amended Act No. 90-14 of 2 June 1990 on the modalities for exercising the right to organize
3. Executive Decree No. 05-11 establishing the conditions for the creation, organization and functioning of the hygiene and safety service, as well as its responsibilities
4. Executive Decree No. 05-09 of 8 January 2005 on joint committees and hygiene and safety officials
5. Executive Decree No. 05-10 of 8 January 2005 establishing the responsibilities, composition, organization and functioning of the inter-enterprise hygiene and safety committee
6. Amended Act No. 90-03 of 6 February 1990 on labour inspection
7. Act No. 83-13 of 2 July 1983 on occupational accidents and diseases (amended and supplemented)
8. Executive Decree No. 05-08 of 8 January 2005 on the specific requirements governing dangerous substances, preparations and products in the workplace
9. Executive Decree No. 05-12 of 8 January 2005 on the specific requirements governing hygiene and safety in the construction, public and hydraulic works sectors

#### *Antigua and Barbuda*

1. Antigua and Barbuda Labour Code (No. 14, 1975) Cap. 27, Division D

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<sup>1</sup> Parties to the Convention in *italics*; parties to the Convention and the Protocol in ***bold italics***.

### *Argentina*

1. Act No. 24.557 on occupational risks (LRT) of 4 October 1995
2. Decree No. 170 of 26 February 1996 regulating LRT
3. Decree No. 334 of 8 April 1996 regulating LRT
4. Act No. 19.587 on occupational hygiene and safety of 21 April 1972
5. Act No. 25.212 Federal Labour Pact of 23 December 1999
6. Act No. 25.877 on the Labour Regime of 2 March 2004
7. Occupational Hazard Supervisory Authority (SRT) Resolution No. 1601/07 of 12 October 2007 amending Resolution No. 840/2005 establishing the Occupational Diseases Register
8. SRT Resolution No. 1604/2007 of 16 October 2007 creating the Occupational Accidents Register and establishing the administrative procedures for the reporting of occupational accidents

### *Armenia*

1. Labour Code of 24 November 2004
2. Law of 24 October 2005 on State Regulation of Occupational Safety
3. Code of Administrative Infractions of 6 December 1986
4. Decision No. 488-N of 13 April 2006 on Investigation and Procedure for Registration of Occupational and Industrial Accidents with Fatal or Grave Results
5. Decision No. 458 of 23 March 2006 establishing the procedure for registration and investigation of occupational diseases, accidents with fatal termination and establishing the list of occupational diseases

### *Australia*

#### COMMONWEALTH

1. National Occupational Health and Safety Strategy 2002–12
2. Australian Workplace Safety Standards Act 2005
3. Offshore Petroleum Act 2006
4. Building and Construction Industry Improvement Act 2005
5. Legislative Instruments Act 2003
6. Workplace Relations Act 1996 as amended up to 2008
7. Occupational Health and Safety (Maritime Industry) Act 1993
8. Occupational Health and Safety Act 1991
9. Seafarers Rehabilitation and Compensation Act 1992
10. Disability Discrimination Act 1992
11. Industrial Chemicals (Notification and Assessment) Act 1989
12. Safety, Rehabilitation and Compensation Act 1988

## NEW SOUTH WALES

13. Occupational Health and Safety Act 2000
14. Occupational Health and Safety Regulations 2001

## QUEENSLAND

15. Workplace Health and Safety Act 1995
16. Workplace Health and Safety Regulations 1997

## SOUTH AUSTRALIA

17. Occupational Health, Safety and Welfare Act 1986
18. Occupational Health, Safety and Welfare Regulations 1995

## TASMANIA

19. Workplace Health and Safety Act 1995
20. Workplace Health and Safety Regulations 1998

## VICTORIA

21. Occupational Health and Safety Act 2004

## WESTERN AUSTRALIA

22. Western Australian Occupational Safety and Health Act 1984
23. Western Australian Occupational Safety and Health Regulations 1996

## NORTHERN TERRITORY

24. Workplace Health and Safety Act 2007
25. Workplace Health and Safety Regulations 2007

## Austria

1. Federal Act on Occupational Safety and Health Protection (Bundesgesetzblatt, BGBl No. 450/1994, amended in BGBl I No. 147/2006)
2. Agricultural Labour Act (BGBl No. 287/1984, amended in BGBl I No. 102/2007)
3. Federal Public Service Protection Act (B-BSG; BGBl I No. 70/1999, amended in BGBl I No. 53/2007)
4. Federal Act Governing Domestic Help and Domestic Employees (BGBl No. 235/1962, amended in BGBl I No. 100/2002)
5. Federal Act on Work at Home (BGBl No. 105/1961, amended in BGBl No. 98/2001)
6. Labour Inspection Act (BGBl No. 27/1993, amended in BGBl I No. 159/2001)
7. Austria's OSH strategy for 2007–12
8. General Social Insurance Act (BGBl No. 189/1955, amended in BGBl I, No. 101/2007)

#### Azerbaijan

1. Labour Code of 1 July 1999
2. Civil Code of 1 September 2000
3. Government Decree No. 27 of 28 February 2000 to approve the procedure for investigation and registration of occupational accidents

#### Bahrain

1. Legislative Decree No. 14 of 1993 amending the Labour Law for the private sector promulgated by Legislative Decree No. 23 of 1976
2. Order No. 23 of 1976 on the organization of labour inspection
3. Act No. 24 of 1976 on social insurance
4. Order No. 15 of 1977 on the organization of services and precautionary measures necessary for the protection of workers during work from the hazards of dangerous machinery
5. Order No. 29 of 1977 on the guarding of machinery
6. Order No. 1 of 1977 on definition and organization of primary health care for workers in establishments employing more than 50 workers

#### Barbados

1. Factories Act (Chapter 347) of 1984
2. Accidents and Occupational Diseases (Notification) Act, as amended up to 1983, Chapter 338
3. Labour Department Act of 1978, Chapter 23

#### Belarus

1. Labour Code of 26 July 1999 (Act No. 432)
2. Law on Trade Unions No. 1605-XII of 22 April 1992
3. Council of Ministers Order No. 30 of 15 January 2004 concerning investigation and recording of occupational accidents and diseases
4. Regulations for the investigation and recording of occupational accidents and diseases, approved by the Council of Ministers Order No. 30 of 15 January 2004

#### Belgium

1. Act of 4 August 1996 on the welfare of workers at work, as amended up to 2007
2. Act and Code on Welfare in the Workplace and extracts from the General Regulations for Social Protection, January 2008
3. Royal Decree of 27 March 1998 on policy on welfare of workers at work, as amended up to 2007
4. General Policy Note of the Minister of Employment and Computerization, Chamber of Representatives of Belgium, 6 November 2006, Fifth Session of the 51st Legislature (2006–07), DOC 51 2706/010
5. Royal Decree of 28 May 2003 on worker health monitoring

*Belize*

1. Labour Act, Chapter 297, Revised Edition 2000
2. Factories Act, Chapter 296, Revised Edition 2000
3. Factories Regulations (Section 12) of the Factories Act

*Bosnia and Herzegovina*

## FEDERATION

1. Labour Law of the Federation of BiH (OG Nos 43/99, 32/00, and 29/03)
2. Law on Health Care in the Federation of BiH (OG No. 29/97)
3. Work Protection Law of the Federation of BiH (OG No. 22/90)

## REPUBLIKA SRPSKA

4. Labour Law of the Republika Srpska (OG No. 38/00, 40/00, 47/02, 38/03, 66/03 and 55/07)
5. Law on Health Care of the Republika Srpska, (OG Nos 38/00, 40/00, 47/02, 38/03 and 66/03)
6. Work Protection Law of the Republika Srpska (OG Nos 26/93, 14/94, 15/96, 21/96, 3/97 and 10/98)

## BRCKO DISTRICT

7. Labour Law of the Brcko District (OG Nos 7/00, 8/03, 33/04, 29/05 19/06 and 19/07)
8. Work Protection Law of the Brcko District (OG Nos 31/05, and 35/05)
9. Law on Health Care of the Brcko District (OG No. 2/01)

*Brazil*

1. Legislative Decree No. 5452 of 01 May 1943, approving the Consolidation of the labour acts, in its amended form of 20 September 2001
2. Decree No. 3214 of 8 June 1978, regulating Chapter V, Title II, of the Codification of labour acts on occupational safety and medicine
3. Decree No. 5961 of 13 November 2006, instituting the Integrated Federal Public Servant Occupational Health System (SISOSP)
4. Decree No. 2 of the Ministry of Labour and Employment of 10 April 1996, instituting the Standing Joint Tripartite Commission
5. Act No. 5161 of 21 October 1996, instituting the Jorge Duprat Figueiredo Foundation of Safety and Medicine at Work, Ministry of Labour and Employment of Brazil (FUNDACENTRO)
6. Decree No. 1679 of the Ministry of Health of 19 September 2002, establishing the National Worker Healthcare Network (RENAST)
7. Act No. 8080 of 19 September 1990 on conditions for the promotion, protection and recovery of health; the organization and functioning of the corresponding services and other provisions
8. Act No. 8.213 of 24 July 1991 on the organization of social security
9. Decree No. 3048 of 6 May 1999, Social Security Regulation
10. Regulatory standard NR-09 on the environmental risk prevention programme contained in Decree No. 3214 of 8 June 1978
11. Regulatory Standard NR-22 on occupational safety and health in mining



12. Regulatory Standard NR-01 on occupational safety and health (General provisions)
13. Decree No. 4552 of 27 December 2002 regarding Labour Inspection Regulations
14. Inter-Ministerial Decree, Ministry of Social Welfare, Ministry of Health and Ministry of Labour and Employment, No. 800 of 3 May 2005 setting out the basis for the national policy on occupational safety and medicine

#### Bulgaria

1. Occupational Health and Safety Act (SG, No. 124/1997 as amended up to and including SG No. 40/2007)
2. Labour Code (SG, Nos 26 and 27/1986), as amended
3. Social Insurance Code (SG, No. 110/1999)

#### Burkina Faso

1. Labour Code (Act No. 033-2004/AN of 14 September 2004)
2. Social Security Code (Act No. 15-2006 of 11 May 2006)
3. Decree 96-014/METSS on the establishment, composition and functioning of Health and Safety Committees

#### Cameroon

1. Labour Code (Act No. 92/007 of 14 August 1992)
2. Act No. 77/11 of 13 July 1977 on the compensation and prevention of occupational accidents and diseases

#### Canada

##### FEDERAL

1. Canada Labour Code (RSC 1985, c.L-2, s. 1, as amended), Part II and its pursuant Canada Occupational Health and Safety Regulations SOR/86-304 and Safety and Health Committees and Representatives Regulations SOR/86-305
2. Government Employees Compensation Act (RSC 1985, c. G-5, as amended)
3. Hazardous Products Act (RSC 1985, c. H-3, as amended) and pursuant Regulations
4. Hazardous Materials Information Review Act (RSC 1985, c. 24 (third Supp.), as amended)

##### ALBERTA

5. OSH Act, Regulation and Code

##### BRITISH COLUMBIA

6. Workers Compensation Act
7. The Occupational Health and Safety Regulations

##### MANITOBA

8. The Workplace Safety and Health Act
9. The Workplace Safety and Health Regulations

##### NEW BRUNSWICK

10. Occupational Health and Safety Act and Regulations

## NEWFOUNDLAND AND LABRADOR

11. Occupational Health and Safety Act and Regulation

## NORTHWEST TERRITORIES AND NUNAVUT

12. Workers' Compensation Act, Safety Act, and Regulations

## NOVA SCOTIA

13. Occupational Health and Safety Act, 1994

## ONTARIO

14. Occupational Health and Safety Act

## PRINCE EDWARD ISLAND

15. Occupational Health and Safety Act

## QUEBEC

16. Law on health and safety at work (LRQ, c. S-2.1)

## YUKON

17. Occupational Health and Safety Act

## SASKATCHEWAN

18. Occupational Health and Safety Act
19. Duties and Rights in the Workplace

*Cape Verde*

1. Legislative Decree No. 35/93 of 21 June 1993 creating the Social Dialogue Council
2. Act No. 17/V/96 of 30 December 1996 on the exercise of the right of trade union organizations to participate in the drafting of labour legislation
3. Legislative Decree No. 55/99 of 6 September 1999 on measures ensuring the safety and health of the workers and a healthy working environment in the workplace
4. Legislative Decree No. 90/97 of 31 December 1997 promulgating the Statute of the General Labour Inspectorate
5. Legislative Decree No. 5/2007 of 16 October 2007 approving the Labour Code

*Central African Republic*

1. Act No. 61/221 of June 1961 instituting the Labour Code
2. Order No. 3758 of 25 November 1954 on general hygiene and safety measures applicable to agricultural, forestry, industrial and commercial enterprises
3. Decree No. 05.006 of 12 January 2005 on the organization and functioning of the Ministry of the Civil Service, Labour, Social Security and the Labour Insertion of Youth and setting out the responsibilities of the Minister
4. Order No. 005/MFPTSSFP/CAF/DGTEFP of 11 July 1994 on the appointment and functioning of Hygiene and Safety Committees

*China*

1. Law on Safety in Production, 2002
2. People's Republic of China Law on the Prevention and Treatment of Occupational Diseases promulgated on 27 October 2001
3. Law on Public Security Administration

*China (Macau Special Administrative Region)*

1. Basic Law of the Macau Special Administrative Region of the People's Republic of China of 31 March 1993
2. Act No. 4/98/M of 27 July 1998 on enterprise policy and rights at work
3. Legislative Decree No. 57/82/M of 22 October 1982 approving the general regulation on occupational safety and hygiene in industrial establishments
4. Act No. 2/83/M of 19 February 1983 on sanctions applicable in cases of violation of legal or regulatory standards governing occupational safety and hygiene in industrial establishments
5. Legislative Decree No. 60/89/M of 18 September 1989 approving the regulation on labour inspection
6. Legislative Decree No. 59/97/M of 29 December 1997 on the Standing Committee on Social Dialogue

Colombia

1. Act No. 100 of 1993 creating the General Occupational Risks System
2. Decree No. 1295 of 1994 setting out the organization and administration of the General Occupational Risks System
3. Decree No. 1542 of 1994 regulating the composition and functioning of the National Occupational Health Committee
4. Decree No. 1834 of 1994 regulating the composition and functioning of the National Occupational Risks Council
5. Decree No. 1832 of 1994 adopting the Occupational Diseases Table
6. Act No. 9a of 1979 establishing standards regulating public health protection
7. Decree No. 614 of 14 March 1984 setting out the basis of the organization and administration of occupational health
8. Resolution No. 1401 of 2007 regulating occupational incident and accident inquiries
9. Decree No. 2140 of 2000 creating the Intersectoral Commission for the Protection of Workers' Health
10. Decision No. 584 of 2004 of the Cartagena Agreement replacing Decision No. 547, Andean Occupational Safety and Health Instrument

Congo

1. Law No. 45-75 of 15 March 1975 establishing the Labour Code, as amended by Law No. 6-96 of 6 March 1996
2. Decree No. 1110 of 24 June 1995 on the election of works councils
3. Decree No. 2000-29 of 17 March 2000 on the National Technical Advisory Committee on hygiene, safety at work and prevention of occupational risks

Costa Rica

1. Labour Code, as amended up to 2003
2. Decree No. 18.379 of 1988 regulating Occupational Health Commissions
3. General Health Act No. 5395 of 30 October 1973
4. Act No. 6727 of 24 May 1982 on occupational risks

5. Decree No. 1 of 4 May 1970 on General Occupational Safety and Hygiene Regulations
6. Decree No. 11492-SPPS on Industrial Hygiene Regulations
7. Decree No. 13466-TSS of 24 March 1982 on General Regulations on Occupational Risks

#### *Croatia*

1. Safety and Health Protection at the Workplace Act, 1996
2. Labour Act of 17 May 1995
3. Labour Inspection Act of 28 June 1996
4. Decision of 19 April 2007 on the creation of the tripartite National Council for Occupational Health and Safety
5. Act of 13 July 2006 on health insurance in relation with occupational health protection
6. Act of 15 July 2003 on health care

#### *Cuba*

1. Act No. 49 of 28 December 1984 on the Labour Code
2. Act No. 13 of 28 December 1977 on occupational protection and hygiene
3. Legislative Decree No. 101 of 3 March 1982 approving the general regulation of Act No. 13 of 28 December 1977
4. Resolution No. 39/2007 of the Ministry of Labour and Social Security, setting out the general basis for occupational safety and health
5. Legislative Decree No. 147 of 21 April 1994 on the reorganization of the bodies of the central state administration
6. Legislative Decree No. 166 of 15 July 1996 on violations of the staff recruitment system and other labour provisions
7. Legislative Decree No. 174 of 9 June 1997 on violations of labour regulations by self-employed persons
8. Resolution No. 15/97 of 2 September 1997 of the Ministry of Labour and Social Security setting out the provisions necessary for improved compliance with Legislative Decree No. 174 of 9 June 1997
9. Resolution No. 20/2007 of 6 April 2007 of the Ministry of Labour and Social Security promulgating regulations on the national labour inspection system
10. Legislative Decree No. 246 of 29 May 2007 on violations of labour, occupational protection and hygiene and social security legislation
11. Resolution No. 19/2003 of 8 September 2003, of the Ministry of Labour and Social Security, on registration and investigation of occupational accidents that result in injuries which leave their victims incapacitated for at least one day
12. Joint Resolution No. 2 of 18 December 1996 of the Ministry of Public Health and the Ministry of Labour and Social Security regarding occupational diseases with compulsory notification status

#### *Cyprus*

1. The Safety and Health at Work Law No. 89(I)/96, as amended up to 25 July 2003
2. The Safety and Health at Work (Chemical Agents) Regulations of 2001, PI 268/2001, 6 July 2001, as amended up to 2004

3. The Minimum Requirements for Safety and Health (Use of Personal Protective Equipment at Work) Regulations of 2001, PI 444/2001, 30 November 2001, as amended up to 2004
4. The Minimum Requirements for Safety and Health at Work with Visual Display Screen Equipment Regulations of 2001, PI 455/2001, 7 December 2001
5. The Minimum Requirements for Safety and Health (Use of Personal protective Equipment at Work) Regulations of 2001, PI 470/2001, 14 December 2001
6. The Control of Risks for Major Accidents related to Dangerous Substances Regulations of 2001, PI 507/2001, 31 December 2001
7. The Safety and Health (Minimum Requirements for Temporary or Mobile Construction Sites) Regulations of 2002, PI 172/2002, 5 April 2002
8. The Management of Safety and Health Issues at Work Regulations of 2002, PI 173/2002, 5 April 2002
9. The Minimum Requirements for Safety and Health at the Workplace Regulations of 2002, PI 174/2002, 5 April 2002, as amended up to 2004
10. The Safety and Health at Work of Workers with Fixed Duration Employment or Temporary Employment Regulations of 2002, PI 184/2002, 12 April 2002
11. The Safety and Health at Work (Protection from Noise) Regulations of 2002, PI 230/2002, 10 May 2002
12. The Minimum Requirements for Safety and Health at Work (Extractive Industries Through Drilling) Regulations of 2002, PI 274/2002, 7 June 2002
13. The Minimum Requirements for Safety and Health at Work (Surface and Underground Extractive Industries) Regulations of 2002, PI 275/2002, 7 June 2002
14. The Safety and Health at Work (Minimum Requirements for the Protection of Persons at Work from Risks from Explosive Atmospheres) Regulations of 2002, PI 291/2002, 21 June 2002
15. Safety and Health at Work (Occupational Diseases Notification) Regulations of 2007 (PI 530/2007)

#### *Czech Republic*

1. Act No. 262/2006 on the Labour Code
2. Act No. 309/2006 on further requirements on occupational health and safety
3. Act No. 251/2005 on labour inspection and establishing the National Labour Inspection Office
4. Government Resolution No. 475 of 19 May 2003 approving a national occupational safety and health policy
5. Resolution No. 1130 of 12 November 2003 approving a national occupational safety and health action programme (further specified by Government Resolution No. 767 of 17 August 2004 on a National Occupational Safety and Health Action Programme for 2004–06)

#### *Denmark*

1. Working Environment (Consolidation) Act No. 497 of 29 June 1998, as amended up to Act No. 442 of 9 June 2004 (consolidated new text issued as Notification No. 268 of 18 March 2005)
2. Record keeping and record reporting Act No. 235 of 3 June 1977

3. Notification No. 247 of 2 April 2003 on exemption from the application of the Working Environment Act in respect of work performed in the employee's home
4. Notification No. 1476 of 20 December 2004 on the Working Environment Council's and the Working Environment Branch Councils' activities for the working environment
5. Notification No. 1477 of 20 December 2004 on the rules applicable to the Working Environment Council
6. Notification No. 1497 of 20 December 2004 on disseminating information on enterprises' occupational safety and health work (the "Smiley Order")

#### Dominican Republic

1. Act 16-92 of 29 May 1992 on the Labour Code
2. Regulation No. 807 of 30 December 1966 on industrial hygiene and safety
3. General Health Act 42.01 of 8 March 2001
4. Regulation of 2001 on labour risk insurance
5. Act No. 385 of 1932 on occupational accidents
6. Decree No. 989-03 of 9 October 2003 on the creation of the National Occupational Health Council (CONSSO)
7. Multisectoral Agreement for Collaboration in the Prevention of HIV/AIDS in the workplace of 2 July 2002

#### Ecuador

1. Labour Code, as amended up to 1997
2. Health Code of 1971
3. Regulation No. 2393 of 1986 on worker safety and health and the improvement of the work environment
4. Resolution No. 172 of 1975 on occupational safety and hygiene regulations
5. Decision No. 584 of 2004 of the Cartagena Agreement replacing Decision 547, Andean Occupational Safety and Health Instrument

#### Egypt

1. Law No. 12 of 2003 enacting the Labour Code
2. Decree No. 985 of 2003 concerning the formation of the Higher Consultative Council for Occupational Safety and Health and ensuring labour environment security

#### *El Salvador*

1. Legislative Decree No. 2117 of 21 May 1956 promulgating the occupational safety and hygiene Act
2. Decree No. 7 of 2 February 1971 promulgating the general regulations on safety and hygiene in the workplace
3. Decree No. 15 of 23 June 1972 promulgating the Labour Code, as amended up to 16 February 2005
4. Agreement No. 93 of 5 June 2006 promulgating the national occupational safety and health policy

Eritrea

1. Labour Proclamation No. 118/2001 (Labour Code)

Estonia

1. Occupational Health and Safety Act of 26 July 1999
2. Machinery Safety Act of 13 November 2002
3. Trade Unions Act of 14 June 2000

*Ethiopia*

1. Labour Proclamation No. 377/ 2003
2. Labour Proclamation No. 262/2002 on public civil servants

***Finland***

1. Occupational Safety and Health Act No. 738/2002, as amended up to Act No. 53 of 20 January 2006
2. Act on occupational safety and health enforcement and cooperation on occupational safety and health at workplaces No. 44/2006, as amended up to Act No. 701 of 11 August 2006
3. National Working Environment Programme, 1985
4. Occupational Health Care Act No.1383/2001
5. Employment Accidents Act No. 608/1948, as amended up to Act No. 48 of 20 January 2006
6. Act No. 701 of 11 August 2006 on occupational safety and health (shared workplaces)

France

1. Labour Code, as amended up to 2008
2. Social Security Code, as amended up to 2006

Germany

1. Labour Protection Act (ArbSchG) BGBL, 1973
2. Occupational Safety Act (ArbSichG) BGBL, 1996
3. Chemicals Act (ChemG), 1980
4. Equipment and Product Safety Act (GPSG), 2004
5. Civil Code (BGB), 2002
6. Works Constitution Act (BetR VG), 1972
7. Accident Insurance Modernization Act (ArbstäHV), 2008

Ghana

1. Labour Act, 2003 (Act No. 651)
2. Labour Regulations, 2007 (LI 1833)

## Greece

1. Presidential Decree No. 17/1996 of 18 January 1996 on measures to improve the safety and health of workers in compliance with Directives 89/391/EEC and 91/38/EEC
2. Law 1568/1985 on Workers' Health and Safety
3. Regulation on the insurance competency and the procedure to grant Social Insurance Institute (IKA) benefits, as approved by the AYE 57440/13-1-1938
4. Law 2084/1992 on social security reform

## Grenada

1. Factories Act Cap – 100, 1958

## Guatemala

1. Decree No. 1441 of 5 May 1961 promulgating the Labour Code, as amended up to 2001
2. General Regulation of 28 December 1957 on occupational safety and hygiene
3. Ministerial Agreement No. 314 of 20 September 2000 creating the National Occupational Health, Hygiene and Safety Council (CONASSO)

## Honduras

1. Act No. 189 of 19 May 1959 on the Labour Code (Title V)
2. Decree No. 65-1991 of 6 August 1991 on the Health Code
3. Executive Agreement No. STSS-053-04 of 19 October 2004 on the General Regulation on Occupational Accident and Disease Prevention Measures
4. Decree 80-2001 of 1 June 2001 reforming the Act on the Honduran Social Security Institute (Occupational Accidents and Diseases)

*Hungary*

1. Act XCIII of 1993 on occupational safety
2. Act LXXXIII of 1997 on compulsory health insurance care services
3. Decree No. 27/1996 (VIII. 28) NM on the reporting and investigation of occupational diseases and cases of increased exposure
4. Decree No. 5/1993 (XII. 26) MüM on the execution of certain provisions of Act XCIII of 1993 on labour safety

*Iceland*

1. Act on working environment, health and safety in the workplace, No. 46/1980, as amended up to Act No. 68 of 2003
2. Regulation No. 785/1998 on safety measures applying to fishing vessels with a length of 15 m or more
3. Regulation No. 678/2004 amending Regulation No. 680/1990 on measures to encourage improvements in the safety and health of flight personnel

## India

1. The Factories Act, 1948
2. The Mines Act, 1952
3. The Dock Workers (Safety, Health and Welfare) Act, 1986



4. Coal Mines Regulations, 1957
5. Metalliferous Mines Regulations, 1961
6. Oil Mines Regulations, 1984
7. Indian Electricity Rules, 1956
8. Mines Rescue Rules, 1985

#### Indonesia

1. Act No. 1 of 1970 concerning occupational safety
2. Act No. 3 of 1951 on labour inspection
3. Act No. 14 of 1969 concerning fundamental rules on labour
4. Act No. 3 of 1992 concerning labour social security
5. Act No. 23 of 1992 concerning health
6. Manpower Act No. 13 of 2003

#### Iraq

1. Act No. 71 of 1987 promulgating the Labour Code
2. Instructions No. 22 of 1987 concerning occupational safety and health

#### *Ireland*

1. Safety, Health and Welfare at Work Act 2005

#### Islamic Republic of Iran

1. Labour Code of 1991
2. Regulation to apply Chapter IV of the Labour Code concerning occupational safety and health, OG 1997
3. Regulation to apply section 93 of the Labour Code, OG 1996
4. Regulation to implement articles 85 and 96 of the Labour Code, OG 1994

#### Israel

1. Accident and Occupational Diseases (Notification) Ordinance, 1945
2. Safety Officer Regulations
3. National Health Insurance Law (consolidated version) 5755-1995
4. Work Safety Ordinance (new version) 5730/1970
5. Labour Inspection (Organization) Law 5714/1954

#### Italy

1. Legislative Decree No. 81 of 9 April 2008
2. Decree of the President of the Council of Ministers of 21 December 2007 on coordination of occupational safety and health preventive and monitoring activities

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**Japan**

1. Industrial Safety and Health Act No. 57 of 1972
2. Mining Safety Law No. 70 of 1949
3. Seafarers Law No. 100 of 1947
4. National Public Service Law No. 120 of 1947
5. Ordinance on industrial safety and health No. 32 of 1972

**Jordan**

1. Labour Code No. 8 of 2 March 1996

***Kazakhstan***

1. Labour Law of 31 December 1999
2. Law on the protection of labour of 28 February 2004
3. Law on the protection of the health of the citizens of the Republic of Kazakhstan, of 19 May 1997

**Kiribati**

1. Employment Ordinance Cap. 30, 1998 Ed
2. National Conditions of Service, 2003 Ed

***Latvia***

1. Labour Protection Law of 20 June 2001
2. Cabinet Regulation No. 585 of 9 August 2005 on procedures for investigation and registration of accidents at work
3. Chemical Substances and Chemical Products Law of 1 April 1998
4. State Labour Inspection Law of 13 December 2001

**Lebanon**

1. Act of 23 September 1946 on the Labour Code as amended up to 24 July 1996
2. Decree No. 14229 of 26 February 2005 on occupational diseases
3. Decree No. 11802 of 30 January 2004 regulating the protection, safety and health of workers in all enterprises covered by the Labour Code
4. Legislative Decree No. 136/1983 on occupational accidents
5. Decree No. 3273 of 26 June 2000 on labour inspection

***Lesotho***

1. Labour Code Order, 1992, as amended up to 2000
2. Labour Code (Chemical Safety) Regulations, 2003
3. Labour Code (Construction Safety) Regulations, 2002
4. Labour Code (Noise) Regulations, 1996
5. Labour Code (Spray Painting) Regulations, 1996
6. Labour Code (Welding and Cutting) Regulations, 1996
7. Mine Safety Act, 1981

**Lithuania**

1. Labour Code of 4 June 2002, as amended
2. Law on safety and health at work 1 July 2003 (Act No. IX-1672)
3. Act No. I-614 of 25 October 1994 on the State Labour Inspectorate

***Luxembourg***

1. Act of 17 June 1994 on occupational safety and health in the workplace, as amended
2. Act of 4 April 1974 reorganizing the labour and mines inspectorate
3. Act of 17 June 1994 on health services in the workplace

**Madagascar**

1. Law No. 2003-044 of 28 July 2004 on the Labour Code
2. Law No. 99-028 of 3 February 2000 on the overhaul of the Maritime Code
3. Law No. 94-029 of 25 August 1995 on the Labour Code
4. Decree No. 2003-1162 of 17 December 2003 concerning the organization of occupational medicine
5. Decree No. 95-175 of 23 November 1995 on the application of provisions of Law 94-029 of 25 August 1995 on the Labour Code
6. Decree No. 889 of 20 May 1960 defining general measures concerning safety and hygiene at work

**Malawi**

1. Occupational Safety, Health and Welfare Act No. 21 of 1997

**Malaysia**

1. Occupational Safety and Health Act No. 514/1994

**Mali**

1. Law No. 92-020 of 23 September 1992 on the Labour Code
2. Decree No. 07-375/P-RM of 26 September 2007 reglementing the modality of the application of Law No. 92-020 and particular OSH measures for undertakings whose employees carry out construction work, public works and any other work related to buildings

**Mauritius**

1. Occupational Safety and Health Act No. 28 of 2005
2. Labour (Amendment) Act No. 26 of 2006
3. Occupational Safety, Health and Welfare Act No. 38 of 1988
4. Health, Safety and Welfare Regulations 1980, GN 358/80 (section 57) of 27 December 1980

***Mexico***

1. Federal Labour Act of 1 April 1970 as amended up to 17 January 2006
2. Federal Regulation on occupational safety and hygiene and the work environment of 21 January 1997

3. Organic Law of the Federal Public Administration of 29 December 1976, as amended up to 1 October 2007
4. Agreement of 20 March 2006 establishing the organization and rules governing the functioning of the National Advisory Committee on the Standardization of Occupational Safety and Health
5. General regulations of 1998 on the inspection and application of sanctions concerning labour legislation violations
6. General Health Act of 7 February 1984, amended up to 18 December 2007
7. Political Constitution of the United States of Mexico of 5 February 1917, amended up to 13 November 2007
8. Official Mexican Standard NOM-021-STPS-1994 on the requirements and characteristics of possible occupational risk reports, for statistical purposes
9. Official Mexican Standard NOM-017-STPS-2001 on the selection, use and handling in the workplace of personal protective equipment

*Moldova, Republic of*

1. Law No. 154-XV of 28 March 2003 on the Labour Code
2. Law No. 625-XII of 2 July 1991 on Occupational Safety and Health
3. Law on insurance against occupational accidents and occupational diseases of 24 December 1999
4. Law No. 140-XV of 10 May 2001 on Labour Inspection
5. Regulations on Labour Inspection, Government Decision No. 1481 of 27 December 2001
6. Regulations on the procedure for investigation of occupational accidents, Government Decree No. 1361 of 22 December 2005

*Mongolia*

1. Labour Law of Mongolia of 14 May 1999, as amended up to 2002
2. National programme of improving the occupational safety and health conditions (2001–05)

*Montenegro*

1. Constitution of the Republic of Montenegro, 1992
2. Law of 23 December 2003 on labour inspection (OG No. 69/03)
3. Labour Law of 9 July 2003 (OG No. 43/03), as amended up to 2005
4. Law on protection at work, 2004 (OG No. 79/04)
5. Mining Law (OG Nos 28/93 and 27/94).
6. Law on general administrative procedure, 2003 (OG No. 60/03)
7. Law on inspection control, 2003 (OG No. 39/03)

*Morocco*

1. Law No. 65-99 on the Labour Code, promulgated by Decree No. 1.03.194 of 11 September 2003

### Mozambique

1. Labour Act No. 23/2007 of 1 August 2007
2. Law No. 5/89 of 18 September 1989 creating the National Social Insurance System
3. Decree No. 32/89 of 8 November 1989, on labour inspection
4. Decree No. 48/73 of 5 July 1973, General Regulations on occupational safety and health in industrial establishments
5. Decree No. 57/73 of 29 November 1973, which establishes the general organic responsibility for control under the General Regulations on occupational safety and health in industrial establishments
6. Decree No. 120/71 of 13 November 1971, Regulations on occupational safety and health in civil engineering works
7. Decree No. 1706 of 19 October 1957, the legal framework for occupational accidents and diseases

### Myanmar

1. The Factories Act, 1951
2. The Oil Field (Labour and Welfare) Act, 1951

### Namibia

1. Government Notice No. 156 of 1997, Regulations relating to the health and safety of employees at work

### *Netherlands*

1. Working Conditions Act of 18 March 1999, as amended up to 1 January 2007
2. Working Conditions Decree of 1997, as amended up to 2004
3. Working Conditions Regulations of 1998, as amended up to 2007
4. Works Council Act, 1979
5. Working Hours Act, 1995, as amended up to 2007
6. Major Accidents (Risks) Decree, 1999

### *New Zealand*

1. Health and Safety in Employment Act, 1999, as amended in 2002
2. Health and Safety in Employment Regulations, 1995
3. Hazardous Substances and New Organisms Act, 1996
4. Human Rights Act, 1993
5. Employment Relations Act, 2000
6. Injury Prevention, Rehabilitation and Compensation Act, 2001

### Nicaragua

1. Act No. 185 of 30 October 1996 on the Labour Code
2. General Law No. 618 of 19 April 2007 on occupational hygiene and security
3. Decree No. 96-2007, Regulations to General Law No. 618
4. Decree No. 974 of 1982 on social security law

5. National Council on Occupational Hygiene and Safety Regulation of 9 September 1994
6. Ministry of Labour Resolution on Joint Occupational Hygiene and Safety Regulations (CMHST) in Enterprises of 8 September 1994
7. Ministerial Standard on minimum hygiene and safety provisions concerning personal protective equipment of 28 October 1996

#### *Nigeria*

1. Factories Act (No. 16 of 1987)
2. Factories (Notification of Dangerous Occurrences) Regulations (LN No. 105 of 1961)

#### *Norway*

1. Act No. 62 of 2005 respecting working environment, working hours and employment protection (Working Environment Act)
2. Ordinance No. 608 of 1998 respecting use of work equipment, as amended up to 2004

#### Pakistan

1. Factories Act, 1934, as amended up to 1997
2. Workmen's Compensation Act No. 8 of 1923, as amended up to 1993
3. West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968
4. Industrial Relations Ordinance 2002
5. Mines Act, 1923
6. Dock Labourers Act, 1934

#### Panama

1. Cabinet Decree No. 252 of 1972 approving the Labour Code, as amended up to 1995
2. Executive Decree No. 31 of 12 May 2008 amending Executive Decree No. 21 of 2 April 1997 establishing the Institutional Technical Committee on Occupational Health, Hygiene and Safety
3. Executive Decree No. 2 of 15 February 2008 regulating safety, health and hygiene in the construction industry

#### Paraguay

1. Act No. 213/93 establishing the Labour Code, as amended up to 2007
2. Decree No. 14.390/92 approving the General Technical Regulation on occupational safety, hygiene and medicine
3. Law No. 836 of 24 December 1976 on the Health Code

#### Peru

1. General Health Act No. 26842 of 1997
2. Supreme Decree No. 009-2005-TR amended by Supreme Decree No. 007-2007-TR on occupational safety and health regulations
3. Supreme Decree No. 013-89-SA of 1989 approving the regulations governing the organization and functioning of the Peruvian Health Development Institute

4. Supreme Decree No. 025-81-TR of 1981 establishing a special occupational hygiene and work environment committee
5. Resolution No. 1472-72-IC-DGI of 1972 publishing the regulations of the industrial safety and hygiene committees
6. General Labour Inspection Act No. 28806 of 2006
7. Supreme Decree No. 19-2006-TR on regulations of the General Labour Inspection Act
8. Decision No. 584 of 2004 of the Cartagena Agreement replacing Decision No. 547, Andean Occupational Safety and Health Instrument
9. Supreme Decree No. 023-92-EM approving the safety and health in mining Regulation of 1992

#### Philippines

1. Presidential Decree No. 442 of 10 June 1974 establishing the Labor Code, as amended up to 2007
2. Occupational Safety and Health Standards (OSHS) of 1978, as amended up to 2001

#### Poland

1. Labour Code of 26 June 1974 (Dz. U. of 1998, No. 21, item 94), as amended up to 2007
2. Act of 7 July 1994 – Construction Law (Dz. U. of 2006, No. 156, item 1118, as amended).
3. Act of 29 November 2000 – Nuclear Law (Dz. U. of 2007, No. 42, item 276)
4. Act of 21 December 2000 on technical supervision (Dz. U. No. 122, item 1321, as amended).
5. Act of 4 February 1994 – Geological and Mining Law (Dz. U. of 2005, No. 228, item 1947, as amended)
6. Act of 6 July 2001 on the Tripartite Commission for Social and Economic Affairs and Voivodeship Social Dialogue Commissions (Dz. U. No. 100, item 1080, as amended)
7. Act of 23 May 1991 on employers organizations (Dz. U. of 1991, No. 55, item 235, as amended)
8. Act of 23 May 1991 on trade unions (Dz. U. of 2001, No. 79, item 854, as amended)
9. Act of 4 September 1997 on government administration sectors (Dz. U. of 2007, No. 65, item 437, as amended)
10. Act of 13 April 2007 on the National Labour Inspectorate (Dz. U. No. 89, item 589)
11. Act of 14 March 1985 on the State Sanitary Inspection (Dz. U. of 2006, No. 122, item 851, as amended)
12. Act of 24 June 1983 on Social Labour Inspection (Dz. U. No. 35, item 163, as amended)
13. Act of 30 October 2002 on social insurance in respect of accidents at work and occupational diseases (Dz.U. No. 199, item 1673, as amended)

*Portugal*

1. Legislative Decree No. 441/91 of 14 November 1991 establishing the principles for the promotion of occupational safety, hygiene and health, and transposing the Framework Directive 89/391/EEC, as amended up to 1999
2. Legislative Decree No. 245/2001 of 8 September 2001, restructuring the National Occupational Hygiene and Safety Council (CNHST)
3. Act No. 99/2003 of 27 August 2003 approving the Labour Code
4. Legislative Decree No. 26/94 of 1 February 1994 setting out the organization and functioning of occupational safety, hygiene and health activities, as amended up to 2000
5. Legislative Decree No. 488/99 of 17 November 1999 defining the forms of application of the legal regime governing occupational safety, hygiene and health in the public administration
6. Decree No. 53/5 of 15 August 2005 promulgating the legal regime governing occupational accidents and diseases
7. Legislative Decree No. 326-B/2007 of 28 September 2007 on the Organic Law of the Conditions of Work Authority
8. Legislative Decree No. 2/82 of 5 January 1982 on compulsory notification of occupational diseases

*Qatar*

1. Labour Law No. 14 of 2004
2. Ministerial Order No. 18 of 2005 on statistical forms for occupational accidents and diseases and procedures for their notification
3. Ministerial Decision No. 20 of 2005 on requirements and conditions to be observed in workplaces and areas for the protection of workers, employees and visitors from occupational hazards
4. Ministerial decision No. 13 of 2005 on organizing inspection work and procedures
5. Ministerial Order No. 16 of 2005 on regulation of medical care provided to workers at undertakings

*Romania*

1. Law No. 319/2006 on Safety and Health at Work
2. Government Decision No. 1425/2006 on the approval of the methodological standards concerning the enforcement of the provisions of Law No. 319/2006 on safety and health at work
3. Law No. 53/2003 of 24 January 2003 on the Labour Code, as amended up to 2007
4. Government Decision No. 314/2001 amended by Government Decision No. 569/2002 on the set-up, organization and functioning of Social Dialogue Committees within certain ministries and prefectures
5. Law No. 109/1997 on the establishment and functions of the Social and Economic Council



*Russian Federation*

1. Federal Law No. 197-FL of 30 December 2001 on the Labour Code, as amended up to 2007
2. Act No. 125-FL of 24 July 1998 on the Compulsory Social Insurance against Occupational Accidents and Occupational Diseases, as amended
4. Act No. 92-FZ of 1 May 1999 on the Russian Tripartite Commission for the Regulation of Social and Labour Relations

*Saudi Arabia*

1. Labour Law (Royal Decree No. M/51) of 27 September 2005 (OJ, 28 October 2005, Vol. 82, No. 4068)
2. Ministerial Decree No. 2833/1 of 09.09.1427H (31.12.2005) concerning recording and notification

*Senegal*

1. Decree No. 2006-1255 of 15 November 2006 regarding the legal means of intervention of the labour inspectorate in the field of occupational health and safety
2. Social Security Code, Law No. 73-37, 31 July 1973
3. Decree No. 2006-1261 of 15 November 2006 setting general hygiene and safety measures in all establishments
4. Act No. 97-17 of 1 December 1997 on the Labour Code, as amended up to 2003
5. Decree No. 2006-1256 of 15 November 2006 on employer obligations concerning occupational safety and health
6. Decree No. 94-244 of 7 March 1994 laying down the procedures for the organization and functioning of occupational hygiene and safety committees
7. Decree No. 2006-1249 of 15 November 2006 on the minimal safety requirements in temporary or mobile building sites
8. Decree No. 2006-1251 of 15 November 2006 on work facilities
9. Decree No. 2006-1253 of 15 November 2006 establishing a medical inspection for work and its attributions
10. Decree No. 2006-1259 of 15 November 2006 concerning signals for security at work

*Serbia*

1. Act of 14 November 2005 on occupational safety and health (OG No. 101/05)
2. Decision on Formation of the Council for Occupational Safety and Health (OG No. 40/05)
3. Rulebook on report forms for injuries at work and occupational diseases (OG No. 84/06)
4. Rulebook on examination and inspection procedure for working equipment and working environment (OG No. 94/06)
5. Rulebook on occupational safety and health related records (OG No. 62/07)
6. Rulebook on workplace and environment risk assessment procedure and method (OG No. 72/06)

*Seychelles*

1. Employment Act, 2005
2. Health and Welfare (Amendments) Act, 2003
3. Occupational Safety and Health (Miscellaneous) Regulations, 1991 (SI 69 of 1991)
4. Occupational Health and Safety Decree, No. 54 of 1997, as amended by Act No. 3 of 1989 and No. 10 of 1999

*Singapore*

1. Workplace Safety and Health Act, No. 7 of 2006, as amended by Act No. 9 of 2008
2. Strategy for Workplace Safety and Health 2015 in Singapore, March 2005
3. Workplace Safety and Health (General Provisions) Regulations, 2006
4. Workplace Safety and Health (Composition of Offences) Regulations, 2006
5. Workplace Safety and Health (First-Aid) Regulations, 2006
6. Workplace Safety and Health (Registration of Factories) Regulations, 2006
7. Workplace Safety and Health (Risk Management) Regulations, 2006
8. Workplace Safety and Health (Workplace Safety and Health Officers) Regulations, 2007
9. Workplace Safety and Health (Incident Reporting) Regulations, 2006

*Slovakia*

1. Constitution of the Slovak Republic of 1992
2. Labour Code, Act No. 311/2001, as amended up to 2003
3. Act No. 124/2006 on occupational safety and health
4. Act No. 95/2000 on labour inspection, as amended by Act No. 231/2000
5. Act No. 272/1994 on protection of health of people, as amended
6. Ordinance No. 115/2006 on minimum safety and health requirements to protect employees against risks

*Slovenia*

1. Act of 30 June 1999 on occupational safety and health (OJ, Text No. 2652), as amended by Act of 20 July 2001 (Text No. 3475)
2. Employment Relationships Act of 24 April 2002 (Text No. 2006)
3. Police Act of 17 June 1998, as amended up to 2006
4. Protection against Natural and Other Disasters Act, No. 51 of 2006 (implementing the Council Directive 89/391 EEC)
5. Mining Act of 30 June 1999, as amended up to 17 June 2004
6. Regulations on requirements for ensuring safety and health of employees at workplaces No. 89/99, as amended by Act No. 39/05
7. Regulations on safety and health requirements for the use of work equipment No. 101/2004
8. Resolution of 26 November 2003 on the National Programme for Occupational Safety and Health (Text No. 5394)
9. Labour Inspection Act of 20 June 1994, as amended up to 2002

10. Penal Code of 29 September 1994, as amended by Act of 30 March 2004 (Text No. 1662)
11. Pension and Disability Insurance Act, No. 109 of 2006
12. Regulations of 24 July 2003 on the List of Occupational Diseases (Text No. 4001)

#### Solomon Islands

1. Safety at Work Act, No. 3 of 1982, as amended up to 1996

#### *South Africa*

1. Occupational Health and Safety Act, 1993 (No. 85 of 1993), as amended
2. Labour Relations Act No. 66 of 1995, as amended by Act No 12 of 2002
3. Occupational Health and Safety Facilities Regulations, No. R.924 of 2004
4. General Administrative Regulations, No. R.929 of 2003
5. Mine Health and Safety Act, No. 29 of 1996, as amended up to 2003
6. Mine Health and Safety Regulations, No. R.93 of 15 January 1997, as amended by Amendment No. 846 of 21 June 2001
7. Mine Health and Safety Act (29/1996) Regulations, No. R.134 of 9 February 2001
8. Merchant Shipping Act, No. 51 of 1957
9. Minerals Act, No. 50 of 1991
10. Aviation Act, No. 74 of 1962

#### *Spain*

1. Act No. 31/1995 of 8 November 1995 on occupational risk prevention, as amended up to 2006
2. Act No. 54/2003 of 12 December 2003 on reform of the legislative framework for occupational risk prevention
3. Act No. 14/1986 of 25 April 1986 on public health, as amended on 22 March 2007
4. Royal Decree No. 5/2000 of 4 August 2000, approving the revised text of the Law on Infringements of the Social Order
5. Royal Decree No. 486/1997 of 14 April 1997 establishing the minimum provisions for safety and health at the workplace, as amended by Royal Decree No. 2177/04
6. Legislative Royal Decree No. 1/1995 of 24 March 1995 approving the revised text of the Workers' Statute Law
7. Royal Decree No. 171/2004 of 30 January 2004 implementing section 24 of Act No. 31/1995
8. Order of 16 December 1987 establishing the procedures for the notification of occupational accidents, amended by Order TAS/2926/2002 of 19 November 2002
9. Resolution of the Ministry of Labour and Social Affairs of 26 November 2002 regulating the use of the electronic occupational accident reporting system (Delta) for the electronic transmission of new forms for the communication of occupational accidents, approved by Order TAS 2926/2002
10. Order TAS/1/2007 of 2 January 2007 establishing a specimen notification form for occupational diseases and promulgating standards on drafting and transmission of forms

11. Royal Decree No. 1299/2006 of 10 November 2006 approving the social security system's table of occupational diseases and establishing the criteria for their notification and registration
12. Legislative Royal Decree No. 1/1994 of 20 June 1994 approving the revised text of the General Social Security Act
13. Royal Decree No. 39/1997 of 17 January 1997 approving the regulations governing the prevention services

#### Sri Lanka

1. Factories Ordinance, No. 45 of 1942, as amended up to 2002
2. Workmen's Compensation Ordinance, No. 19 of 1935, as amended up to 1990
3. Employees' Councils Act, No. 32 of 1979

#### Suriname

1. Industrial Accidents Act, No. 145 of 1947
2. State Decree of 30 May 1981 prescribing Safety Regulations No. 7 laying down provisions governing working conditions in places where work is carried out
3. Decree on Labour Inspection, 1983
4. Civil Code, April 1969
5. Chemicals Decree, Safety Regulation No. 4
6. Ionizing Radiation Decree, Safety Regulation No. 8, 1981, No. 73
7. State Decree of 30 May 1981 prescribing Safety Regulation No. 9 for the prevention of adverse effects on health resulting from the inhalation of harmful gases or vapours

#### *Sweden*

1. Work Environment Act (SFS 1977:1160), as amended
2. Work Environment Ordinance (SFS 1977:1166), as amended
3. Work Environment Authority (Standing Instructions) Ordinance (SFS 2007:913)
4. Domestic Employment (Working Hours etc.) Act (SFS 1970:943)
5. Impact Assessment (Regulatory Provisions) Ordinance (SFS 2007:1244)

#### Switzerland

1. Labour Act (RS 822.11)
2. Decree 1 of 10 May 2000 on the Labour Act (RS 822.111)
3. Decree 2 of 10 May 2000 on the Labour Act (Special provisions for certain categories of enterprises or workers) (RS 822.112)
4. Decree 3 of 18 August 1993 on the Labour Act (RS 822.113)
5. Decree 4 of 18 August 1993 on the Labour Act (Industrial enterprises, approval of plans and authorization to operate) (RS 822.114)
6. Decree 5 of 28 September 2007 on the Labour Act (RS 822.115)
7. Federal Act of 20 March 1981 on accident insurance (RS 832.20)

8. Decree of 19 December 1983 on the prevention of occupational accidents and diseases (RS 832.30)
9. Decree on accident insurance statistics of 15 August 1994 (RS 431.835)

Syrian Arab Republic

1. Decree of the Ministry of Social Affairs and Labour, No. 269 on Act 1977 on occupational safety and health, amended by Decree No. 234 of 18 February 1978
2. Act No. 92/1959 of 6 April 1959, instituting the Social Insurance Code, amended by Act No. 143 of 14 August 1961, and Act No. 78 of 30 December 2001

Tanzania, United Republic of

1. Occupational Safety and Health Act, No. 5, 2003
2. Accidents and Occupational Diseases (Notification) Ordinance, No. 25 of 1953
3. National Policy on HIV/AIDS of 2001

Thailand

1. Constitution of the Kingdom of Thailand of 2007
2. Labour Protection Act, 1998
3. Public Health Act, 1992
4. Hazardous Substances Act, 1992
5. Factories Act, 1992
6. Labour Ministerial Regulation prescribing the Standards for Administration and Management of Occupational Safety, Health and Environment, 2006

*The former Yugoslav Republic of Macedonia*

1. Law on Occupational Safety and Health (OG No. 92/07)
2. Rulebook for measures for occupational safety and health while working with crane (OG No. 115/05)
3. Rulebook for occupational safety and health for working equipment (OG No. 116/07)
4. Rulebook for the signs for occupational safety and health (OG No. 127/07)
5. Rulebook for personal protective equipment which is used by employees during work (OG No. 116/07)

Trinidad and Tobago

1. Occupational Safety and Health Act No. 1 of 2004, as amended by Act No. 3 of 2006

Tunisia

1. Act No. 66-27 of 30 April 1966 on the Labour Code
2. Decree No. 96 of 14 February 1996 on the organization of the Ministry of Social Affairs, Solidarity and Tunisians Abroad
3. Act No. 90-77 of 7 August 1990, amended by Act No. 09-96 of 6 March 1996 establishing the Institute for Occupational Health and Safety
4. Act No. 2004-71 of 2 August 2004 establishing a health insurance regime

5. Order of the Ministry of Social Affairs, Solidarity and Tunisians Abroad of 14 February 2007 on the protection of workers engaged in the manual transportation of loads
6. Order of 12 June 1987 determining the machines and machine parts that may not be employed, put on sale, sold or hired without protection equipment

#### *Turkey*

1. Labour Act No. 4857 of 28 May 2003
2. Law on Public Employees No. 657 of 14 July 1965
3. Code of Obligations
4. Maritime Labour Act No. 854 of 1967
5. Social Insurance Act No.506 of 17 July 1964
6. Regulation on the working procedures and principles of the Tripartite Advisory Board concerning working life of 2004
7. Regulation of the Ministry of Labour and Social Security on workers' occupational health and safety (implementing the Framework Directive 89/391/EEC) of 9 December 2003
8. Regulation of the Ministry of Labour and Social Security on the procedures and principles of occupational health and safety trainings for workers of 7 April 2004
9. Regulation of the Ministry of labour and Social Security on minimum safety and health requirements for the use of personal protective equipment in the workplace of 2 November 2004

#### Ukraine

1. Constitution of Ukraine of 28 June 1996, as amended up to 2004
2. Act on Labour Protection (Safety), of 14 October 1992, as amended up to 2002
3. Labour Code of 1972, as amended up to 2005
4. Act No. 1105-XIV of 23 September 1999 on compulsory state social insurance for industrial occupational accidents and diseases leading to a loss of working capacity (Text No. 403), as amended by Act No. 996 of 27 April 2007
5. Decision of the Cabinet of Ministers of Ukraine of 25 August 2004, No. 1112, on certain issues on the investigation and registration of industrial accidents, occupational diseases and breakdowns at work

#### United Kingdom

1. Health and Safety at Work, etc. Act, 1974, as amended up to 1998
2. Health and Safety at Work (Northern Ireland) Order, 1978 (Northern Ireland)
3. Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, 1995, and Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland), 1997
4. Health and Safety (Enforcing Authority) Regulations, 1998
5. Management of Health and Safety at Work Regulations, 1999, and Management of Health and Safety at Work Regulations (Northern Ireland), 2000
6. Workplace (Health, Safety and Workplace) Regulations 1992, and Workplace (Health, Safety and Welfare) Regulations (Northern Ireland), 1993
7. Provision and Use of Work Equipment Regulations, 1998, and Provision and Use of Work Equipment Regulations (Northern Ireland), 1999

8. Working Time Regulations, 1998 (UK)
9. UK's Civil Contingencies Act, 2004
10. Control of Major Accident Hazards Regulations, 1999, and Control of Major Accident Hazards (Northern Ireland) Regulations, 2000
11. Pipelines Safety Regulations, 1996, and Pipelines Safety (Northern Ireland) Regulations, 1997
12. Radiation (Emergency Preparedness and Public Information) Regulations, 2001, and Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland), 2001
13. The Disability Discrimination Act, 1995 (UK)
14. Safety Representatives and Safety Committees Regulations, 1977 (UK)
15. Health and Safety (Consultation With Employees) Regulations, 1996 (UK)
16. Data Protection Act, 1998 (UK)
17. The Employment Rights Act, 1996 (UK)
18. Health and Safety Information for Employees Regulations, 1989 (UK)

#### United States

1. The OSH Act, codified at 29 USC 651 et seq., and its corresponding regulations, 29 CFR, parts 1902–2200
2. The Mine Act, codified at 30 USC 801 et seq., and its corresponding regulations, 30 CFR, parts 1–199
3. Fair Labor Standards Act (FLSA), 29 USC 201 et seq., and the child labour regulation issued at 29 CFR, part 570
4. Construction Safety Act (CSA), 40 USC 3704
5. Mine Improvement and New Emergency Response Act, Pub.L. 109–236, 15 June 2006, 120 Stat. 493.
6. National Labor Relations Act, 29 USC

#### Uruguay

1. Decree No. 406/988 of 3 June 1988 updating the regulatory provisions on occupational safety, hygiene and health in order to bring them into line with the new conditions of the world of work
2. Decree No. 83/996 of 7 March 1996 establishing the National Occupational Safety and Health Council
3. Decree No. 680/997 of 6 December 1977 setting out the tasks and responsibilities of the General Labour Inspectorate
4. Decree No. 186/004 of 8 June 2004 establishing the criteria for setting the amounts of fines (levied by the General Labour Inspectorate) imposed in cases of infringement of legal provisions
5. Act No. 16.074 of 10 October 1989 on occupational accidents and diseases
6. Decree No. 64/004 of 18 February 2004, promulgating the National Code on Compulsorily Notifiable Diseases and Health Situations
7. Regulatory Decree No. 169/004 of 20 May 2004 on the extension of compulsory notification of occupational accidents and diseases to the General Labour Inspectorate

8. Decree No. 291/007 of 13 August 2007 on minimum compulsory provisions for the management of the prevention of and protection against risks derived from commercial, industrial, rural or service activities
9. Decree No. 108/007 of 22 March 2007 on the obligation to carry work papers
10. Decree No. 53/996 of 14 February 1996 establishing the position of health and safety site delegate in the construction sector
11. Act No. 18.099 of 24 January 2007 on outsourcing
12. Decree No. 306/005 of 14 September 2005 on minimum compulsory provisions for the management of the prevention of and protection against risks derived from (or which could occur as a result of) productive activity in the chemicals industry

*Bolivarian Republic of Venezuela*

1. Organic Law on prevention, working conditions and the work environment, of 22 July 2005 (LOPCYMAT)
2. Constitution of the Bolivarian Republic of Venezuela of 15 December 1999
3. Organic Labour Law of 27 November 1990, as amended up to 19 June 1997
4. Decree No. 4.447 of 25 April 2006 promulgating the regulations of the Organic Labour Law
5. Partial Regulation of LOPCYMAT of 22 December 2006
6. Venezuelan standard COVENIN 474:1997, third revised version, on registration, classification and statistics regarding occupational injuries
7. Organic Labour Law of 1991

*Viet Nam*

1. Decision No. 233/2006/QT-TTg approving the National Programme on Labour Protection, Safety and Sanitation up to 2010
2. Labour Code of the Socialist Republic of Viet Nam of 23 June 1994
3. Law on Environmental Protection (No. 52/2005/QH11)

*Yemen*

1. Labour Code, Act No. 5 of 1995, as amended up to 2001
2. Ministerial Order No. 78 of 1995 promulgating Occupational Safety and Health Regulation
3. National Regulations on Occupational safety and Health, Act No. 102071/135P of 2001
4. Order of the Council of Ministers No. 13 of 1998 concerning the composition of the Committee for Occupational Health and Safety

*Zambia*

1. Factories Act (No. 2 of 1966), as amended up to Act No. 13 of 1994
2. The Mines and Minerals Act of 13 September 1995



*Zimbabwe*

1. Factories and Works Act of 1951 (Chapter 14:08), as amended up to 1996
2. Mining (Management and Safety) Regulations No. 109, 1990
3. National Social Security Authority (Accident Prevention and Worker's Compensation Scheme) Notice No. 68, 1990
4. Factories and Works (Registration and Control of Factories) Regulations, 1976 (RGN No. 262 of 1976)
5. Factories and Works (General) Regulations, 1976 (RGN No. 263 of 1976)
6. Environmental Management Act No. 13 of 2002
7. Hazardous Substances and Articles Act of 1971 (Chapter 322), as amended 1973

## Appendix IV

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### Texts of Convention No. 155 and Recommendation No. 164

#### CONVENTION CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office,  
and having met in its Sixty-seventh Session on 3 June 1981, and  
Having decided upon the adoption of certain proposals with regard to safety and health and the  
working environment, which is the sixth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention,  
adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one  
the following Convention, which may be cited as the Occupational Safety and Health  
Convention, 1981:

#### PART I. SCOPE AND DEFINITIONS

##### *Article 1*

1. This Convention applies to all branches of economic activity.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

##### *Article 2*

1. This Convention applies to all workers in the branches of economic activity covered.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation, any limited categories of workers which may have been

excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

### *Article 3*

For the purpose of this Convention –

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

## PART II. PRINCIPLES OF NATIONAL POLICY

### *Article 4*

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

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

### *Article 5*

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

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

### *Article 6*

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

### *Article 7*

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

## PART III. ACTION AT THE NATIONAL LEVEL

### *Article 8*

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

### *Article 9*

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

### *Article 10*

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

### *Article 11*

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

- (a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;
- (b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;

- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;
- (f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

#### *Article 12*

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

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

#### *Article 13*

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

#### *Article 14*

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

#### *Article 15*

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

2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

#### PART IV. ACTION AT THE LEVEL OF THE UNDERTAKING

##### *Article 16*

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

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

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

##### *Article 17*

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

##### *Article 18*

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

##### *Article 19*

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

- (a) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;
- (b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;
- (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;
- (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;
- (e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;
- (f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

##### *Article 20*

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

*Article 21*

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

PART V. FINAL PROVISIONS

*Article 22*

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

*Article 23*

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

*Article 24*

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

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

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

*Article 25*

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

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

*Article 26*

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

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

*Article 27*

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

*Article 28*

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this

Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

*Article 29*

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

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 25 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

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

*Article 30*

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



RECOMMENDATION CONCERNING OCCUPATIONAL SAFETY AND HEALTH  
AND THE WORKING ENVIRONMENT

The General Conference of the International Labour Organisation,

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

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

Having determined that these proposals shall take the form of a Recommendation  
supplementing the Occupational Safety and Health Convention, 1981,

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

I. SCOPE AND DEFINITIONS

1.

- (1) To the greatest extent possible, the provisions of the Occupational Safety and Health Convention, 1981, hereinafter referred to as the Convention, and of this Recommendation should be applied to all branches of economic activity and to all categories of workers.
- (2) Provision should be made for such measures as may be necessary and practicable to give self-employed persons protection analogous to that provided for in the Convention and in this Recommendation.

2. For the purpose of this Recommendation –

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

II. TECHNICAL FIELDS OF ACTION

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

- (a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;
- (b) lighting, ventilation, order and cleanliness of workplaces;
- (c) temperature, humidity and movement of air in the workplace;
- (d) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their approval and transfer;

- (e) prevention of harmful physical or mental stress due to conditions of work;
- (f) handling, stacking and storage of loads and materials, manually or mechanically;
- (g) use of electricity;
- (h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues, and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
- (i) radiation protection;
- (j) prevention and control of, and protection against, occupational hazards due to noise and vibration;
- (k) control of the atmosphere and other ambient factors of workplaces;
- (l) prevention and control of hazards due to high and low barometric pressures;
- (m) prevention of fires and explosions and measures to be taken in case of fire or explosion;
- (n) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (o) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water, and any other welfare facilities connected with occupational safety and health;
- (p) first-aid treatment;
- (q) establishment of emergency plans;
- (r) supervision of the health of workers.

### III. ACTION AT THE NATIONAL LEVEL

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

- (a) issue or approve regulations, codes of practice or other suitable provisions on occupational safety and health and the working environment, account being taken of the links existing between safety and health, on the one hand, and hours of work and rest breaks, on the other;
- (b) from time to time review legislative enactments concerning occupational safety and health and the working environment, and provisions issued or approved in pursuance of clause (a) of this Paragraph, in the light of experience and advances in science and technology;
- (c) undertake or promote studies and research to identify hazards and find means of overcoming them;
- (d) provide information and advice, in an appropriate manner, to employers and workers and promote or facilitate co-operation between them and their organisations, with a view to eliminating hazards or reducing them as far as practicable; where appropriate, a special training programme for migrant workers in their mother tongue should be provided;
- (e) provide specific measures to prevent catastrophes, and to co-ordinate and make coherent the actions to be taken at different levels, particularly in industrial zones where undertakings with high potential risks for workers and the surrounding population are situated;
- (f) secure good liaison with the International Labour Occupational Safety and Health Hazard Alert System set up within the framework of the International Labour Organisation;

- (g) provide appropriate measures for handicapped workers.

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

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

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

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

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

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

#### IV. ACTION AT THE LEVEL OF THE UNDERTAKING

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

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

- (h) to undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with the foregoing clauses.

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

12.

- (1) The measures taken to facilitate the co-operation referred to in Article 20 of the Convention should include, where appropriate and necessary, the appointment, in accordance with national practice, of workers' safety delegates, of workers' safety and health committees, and/or of joint safety and health committees; in joint safety and health committees workers should have at least equal representation with employers' representatives.
- (2) Workers' safety delegates, workers' safety and health committees, and joint safety and health committees or, as appropriate, other workers' representatives should –
  - (a) be given adequate information on safety and health matters, enabled to examine factors affecting safety and health, and encouraged to propose measures on the subject;
  - (b) be consulted when major new safety and health measures are envisaged and before they are carried out, and seek to obtain the support of the workers for such measures;
  - (c) be consulted in planning alterations of work processes, work content or organisation of work, which may have safety or health implications for the workers;
  - (d) be given protection from dismissal and other measures prejudicial to them while exercising their functions in the field of occupational safety and health as workers' representatives or as members of safety and health committees;
  - (e) be able to contribute to the decision-making process at the level of the undertaking regarding matters of safety and health;
  - (f) have access to all parts of the workplace and be able to communicate with the workers on safety and health matters during working hours at the workplace;
  - (g) be free to contact labour inspectors;
  - (h) be able to contribute to negotiations in the undertaking on occupational safety and health matters;
  - (i) have reasonable time during paid working hours to exercise their safety and health functions and to receive training related to these functions;
  - (j) have recourse to specialists to advise on particular safety and health problems.

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

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

14. Employers should, where the nature of the operations in their undertakings warrants it, be required to set out in writing their policy and arrangements in the field of

occupational safety and health, and the various responsibilities exercised under these arrangements, and to bring this information to the notice of every worker, in a language or medium the worker readily understands.

15.

- (1) Employers should be required to verify the implementation of applicable standards on occupational safety and health regularly, for instance by environmental monitoring, and to undertake systematic safety audits from time to time.
- (2) Employers should be required to keep such records relevant to occupational safety and health and the working environment as are considered necessary by the competent authority or authorities; these might include records of all notifiable occupational accidents and injuries to health which arise in the course of or in connection with work, records of authorisation and exemptions under laws or regulations to supervision of the health of workers in the undertaking, and data concerning exposure to specified substances and agents.

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

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

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

## V. RELATIONS TO EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

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

- (1) In the development and application of the policy referred to in Article 4 of the Convention and without prejudice to their obligations under Conventions they have ratified, Members should refer to the international labour Conventions and Recommendations listed in the Appendix.
- (2) The Appendix may be modified by the International Labour Conference, by a two-thirds majority, in connection with the future adoption or revision of any Convention or Recommendation in the field of safety and health and the working environment.

## APPENDIX

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

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

## Appendix V

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### **Text of the annex to the Promotional Framework for the Occupational Safety and Health Recommendation, 2006 (No. 197)**

#### INSTRUMENTS OF THE INTERNATIONAL LABOUR ORGANIZATION RELEVANT TO THE PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

##### I. CONVENTIONS

Labour Inspection Convention, 1947 (No. 81)  
Radiation Protection Convention, 1960 (No. 115)  
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)  
Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)  
Labour Inspection (Agriculture) Convention, 1969 (No. 129)  
Occupational Cancer Convention, 1974 (No. 139)  
Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)  
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)  
Occupational Safety and Health Convention, 1981 (No. 155)  
Occupational Health Services Convention, 1985 (No. 161)  
Asbestos Convention, 1986 (No. 162)  
Safety and Health in Construction Convention, 1988 (No. 167)  
Chemicals Convention, 1990 (No. 170)  
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)  
Safety and Health in Mines Convention, 1995 (No. 176)  
Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)  
Safety and Health in Agriculture Convention, 2001 (No. 184)  
Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

## II. RECOMMENDATIONS

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



## Appendix VI

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### Text of the Protocol to Convention No. 155

#### PROTOCOL TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office,  
and having met in its 90th Session on 3 June 2002, and

Noting the provisions of Article 11 of the Occupational Safety and Health Convention, 1981,  
(hereinafter referred to as “the Convention”), which states in particular that:

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

...

- (c) the establishment and application of procedures for the notification of occupational  
accidents and diseases, by employers and, when appropriate, insurance institutions  
and others directly concerned, and the production of annual statistics on  
occupational accidents and diseases;

...

- (e) the publication, annually, of information on measures taken in pursuance of the  
policy referred to in Article 4 of this Convention and on occupational accidents,  
occupational diseases and other injuries to health which arise in the course of or in  
connection with work,

and

Having regard to the need to strengthen recording and notification procedures for occupational  
accidents and diseases and to promote the harmonization of recording and notification  
systems with the aim of identifying their causes and establishing preventive measures,  
and

Having decided upon the adoption of certain proposals with regard to the recording and  
notification of occupational accidents and diseases, which is the fifth item on the agenda  
of the session, and

Having determined that these proposals shall take the form of a protocol to the Occupational  
Safety and Health Convention, 1981;

adopts this twentieth day of June two thousand and two the following Protocol, which may be  
cited as the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

## DEFINITIONS

### *Article 1*

For the purpose of this Protocol:

- (a) the term “occupational accident” covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;
- (b) the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activity;
- (c) the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;
- (d) the term “commuting accident” covers an accident resulting in death or personal injury occurring on the direct way between the place of work and:
  - (i) the worker’s principal or secondary residence; or
  - (ii) the place where the worker usually takes a meal; or
  - (iii) the place where the worker usually receives his or her remuneration.

## II. SYSTEMS FOR RECORDING AND NOTIFICATION

### *Article 2*

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

- (a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
- (b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

### *Article 3*

The requirements and procedures for recording shall determine:

- (a) the responsibility of employers:
  - (i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;
  - (ii) to provide appropriate information to workers and their representatives concerning the recording system;
  - (iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and
  - (iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;
- (b) the information to be recorded;
- (c) the duration for maintaining these records; and

- (d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

#### *Article 4*

The requirements and procedures for the notification shall determine:

- (a) the responsibility of employers:
  - (i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
  - (ii) to provide appropriate information to workers and their representatives concerning the notified cases;
- (b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;
- (c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and
- (d) the time limits for notification.

#### *Article 5*

The notification shall include data on:

- (a) the enterprise, establishment and employer;
- (b) if applicable, the injured persons and the nature of the injuries or disease; and
- (c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

### III. NATIONAL STATISTICS

#### *Article 6*

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

#### *Article 7*

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

### IV. FINAL PROVISIONS

#### *Article 8*

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force 12 months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall

come into force for a Member 12 months after the date on which its ratification has been registered by the Director-General and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

#### *Article 9*

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 25, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its Article 25 by a Member which has ratified this Protocol shall ipso jure involve the denunciation of this Protocol.

3. Any denunciation of this Protocol in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

#### *Article 10*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

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

#### *Article 11*

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

#### *Article 12*

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