FINAL REPORT:

ILO TRIPARTITE CAPACITY-BUILDING WORKSHOP ON LABOUR LEGISLATION

22-25 May 2007
Coco Palm Hotel,
Rodney Bay Village, Saint Lucia
## Table of contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>1</td>
</tr>
<tr>
<td>I. Introduction</td>
<td>2</td>
</tr>
<tr>
<td>II. Opening Session</td>
<td>2</td>
</tr>
<tr>
<td>III. Background of CARICOM Model Laws</td>
<td>4</td>
</tr>
<tr>
<td>IV. Reviews of Compliance of National Labour Legislation with CARICOM Model Labour Laws and Relevant International Labour Standards</td>
<td>4</td>
</tr>
<tr>
<td>Session 1: Termination of employment</td>
<td>5</td>
</tr>
<tr>
<td>Session 2: Registration, status and recognition of trade unions and employers’ organizations</td>
<td>7</td>
</tr>
<tr>
<td>Session 3: Equality of opportunity and treatment in employment and occupation</td>
<td>8</td>
</tr>
<tr>
<td>Session 4: Occupational safety and health (OSH) and the working environment</td>
<td>10</td>
</tr>
<tr>
<td>V. CARICOM Social Floor and Other Initiatives</td>
<td>12</td>
</tr>
<tr>
<td>VI. Participatory Law-Making: Introduction, Legislative Plan and Drafting Techniques</td>
<td>13</td>
</tr>
<tr>
<td>VII. Freedom of Association, Collective Bargaining and the Right to Strike</td>
<td>15</td>
</tr>
<tr>
<td>VIII. The Employment Relationship: ILO Convention No. 158 &amp; Recommendation No. 198</td>
<td>16</td>
</tr>
<tr>
<td>IX. Tripartite Consultation and the Role of Tripartite Institutions in Labour Law Reform: ILO Convention No 144</td>
<td>17</td>
</tr>
<tr>
<td>X. Discrimination and Gender Issues: ILO Convention No. 100 and No.111</td>
<td>18</td>
</tr>
<tr>
<td>XI. Forced and Compulsory Labour</td>
<td>20</td>
</tr>
<tr>
<td>XII. Elimination of Child Labour</td>
<td>21</td>
</tr>
<tr>
<td>XIII. Are Model Labour Laws Useful in the Context of the OECS and CARICOM? Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis of CARICOM Model Labour Laws</td>
<td>21</td>
</tr>
<tr>
<td>XV. Plans of Action</td>
<td>24</td>
</tr>
<tr>
<td>St. Vincent and the Grenadines</td>
<td>24</td>
</tr>
<tr>
<td>Antigua and Barbuda</td>
<td>25</td>
</tr>
<tr>
<td>St. Kitts and Nevis</td>
<td>25</td>
</tr>
<tr>
<td>Saint Lucia</td>
<td>25</td>
</tr>
<tr>
<td>Dominica</td>
<td>25</td>
</tr>
<tr>
<td>Grenada</td>
<td>26</td>
</tr>
<tr>
<td>XVI. Evaluation of the workshop</td>
<td>26</td>
</tr>
<tr>
<td>Annexes</td>
<td></td>
</tr>
</tbody>
</table>
Executive Summary

The ILO Subregional Office for the Caribbean organized a Tripartite Capacity-building Workshop on Labour Legislation for ILO member States of the Organization of Eastern Caribbean States (OECS) in Saint Lucia from 22-25 May 2007. This report summarizes the topics covered, the main issues discussed and the final conclusions of the workshop that took the form of Plans of Action for legislative reform at national level.

The workshop was facilitated by a highly experienced team, including Ms. Mary Read - Deputy Director of the ILO Subregional Office for the Caribbean, Mrs. Luesette Howell - Senior Specialist for Employers’ Activities, Ms. Jane Hodges - Senior Labour Law Specialist, Social Dialogue, Labour Legislation and Labour Administration Department, ILO, Geneva, Ms. Liz Mazelie - Administrative/Finance Assistant and Mr. Clive Pegus - Labour Law consultant.

The workshop was notable for its interactive nature as well as the opportunity it afforded the tripartite partners to understand better the provisions of the CARICOM Model Labour Laws, their linkages to ILO Conventions and the linkages to their national legislation. The workshop also provided the participants an opportunity to learn first hand about the variations in legislation across the Eastern Caribbean states. All participants expressed a true desire to disseminate the knowledge gained during the workshop to others in their national settings as well as to move forward with a legislative plan to reform existing labour legislation where it was a priority.

Throughout the workshop, participants were invited to consider those specific areas of their national labour legislation that could be better aligned with the provisions of ILO Conventions as well as the CARICOM Model Labour Legislation, with the objective of developing a Plan of Action. The Plans of Action developed by each tripartite national group is included in Section XV of this Report.

In addition to the Plans of Action, it is important to highlight a number of other areas where significant conclusions were reached, such as:

- recognition by the tripartite partners of the importance and essential role that social dialogue must play in the development and reform of labour laws;
- recognition of the importance of aligning labour legislation in the regional integration process;
- recognition by the tripartite partners that harmonization of labour law does not entail making each countries' labour laws the same but rather aligning the laws to domesticate the main principles contained in ILO Conventions and the CARICOM Model Labour Laws;
- the need to make the provisions of national labour legislation better known to employers and workers in all countries; and
- the need to keep labour legislation under constant review in order to ensure that the legislation responds adequately to the real needs of the market and economy and to reflect the very rapidly changing nature of work.

A special note of appreciation is given to the Ministry of Health and Labour Relations of the Government of Saint Lucia for kindly agreeing to collaborate with the ILO and for their generous contributions leading to the successful outcomes of this workshop.
I. Introduction

1. The Tripartite Capacity-building Workshop on Labour Legislation for ILO Member States belonging to the Organization of Eastern Caribbean States (OECS) was convened by the ILO Subregional Office for the Caribbean at the Coco Palm Hotel in Saint Lucia from 22-25 May 2007. Funding for this workshop was provided by the Social Dialogue, Labour Law and Labour Administration Department of the ILO and the Canadian-funded project “Harmonization of Labour Legislation in the English- and Dutch-speaking Caribbean”.

2. The workshop Agenda is attached at Annex I and the list of participants is attached as Annex 2.

II. Opening Session

3. The objectives of the capacity-building workshop were that participants would:
   - have a better understanding of the 4 CARICOM model labour laws, the relevant ILO Conventions and the relevant national labour legislation;
   - have a better understanding of the national and subregional labour law making processes;
   - be able to analyse labour law issues from a comparative perspective, and
   - understand the importance of social dialogue during the making of labour law.

4. The Caribbean Community (CARICOM) adopted Model Labour Laws in 1995 and 1997 in four areas in an effort to give effect to certain ILO Conventions. At the time of acceptance, CARICOM requested member States to consider the model laws as a basis for tripartite consultation at the national level with the view to legislative enactment, where appropriate, as either new legislation, in whole or in part, or as a basis for updating existing legislation. The four Model Labour Laws and the relevant ILO Conventions are summarized in the Table 1 below.

<table>
<thead>
<tr>
<th>CARICOM Model Labour Law</th>
<th>Relevant ILO Conventions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination of employment</td>
<td>ILO Convention No. 158 on Termination of Employment</td>
</tr>
<tr>
<td>Registration, status and recognition of trade unions</td>
<td>ILO Convention No. 87 on Freedom of Association, and</td>
</tr>
<tr>
<td>and employers' organizations</td>
<td>ILO Convention No. 98 on Collective Bargaining,</td>
</tr>
<tr>
<td>Equality of opportunity and non-discrimination in</td>
<td>ILO Convention No. 100 on Equal Remuneration for Work of</td>
</tr>
<tr>
<td>employment</td>
<td>Equal Value, and ILO Convention No. 111 on Equality of</td>
</tr>
<tr>
<td></td>
<td>Treatment and Non-Discrimination in Employment and Occupation</td>
</tr>
<tr>
<td>Occupation safety and health and the working</td>
<td>Various OSH Conventions, with particular emphasis on</td>
</tr>
<tr>
<td>environment</td>
<td>Convention No. 155 and the new framework Convention No. 187</td>
</tr>
</tbody>
</table>

5. Under the Canadian-funded project “Harmonization of Labour Legislation in the English- and Dutch-speaking Caribbean”, the ILO Subregional Office for the Caribbean had engaged a consultant to undertake an assessment of national labour legislation within the thirteen CARICOM member States using as a benchmark the
four above listed CARICOM model texts. Using the findings of the studies, the workshop would:

- identify key issues within each of the four pieces of model legislation to provide the basis of comparison across countries;
- report on legislation that has been enacted since the adoption of the model legislation and indicate the extent of compliance with the model legislation;
- indicate the areas of the model legislation where there remained the largest differences among countries and the major gaps in labour law covered by the model legislation;
- make recommendations and indicate elements of a Plan of Action for each country to move the process of harmonization forward.

6. Information on the new website devoted to the project “Harmonization of Labour Legislation” was provided and participants were informed that the website included links to the four CARICOM Model Labour Laws and the relevant ILO Conventions. Plans to include the texts of the main national labour laws in the website were also raised; the fact that most of them were accessible in the ILO database “NATLEX” was also explained (later during the workshop, participants were shown how to log-on to and navigate within the various websites so as to be better skilled at accessing the principal labour law materials).

7. The ILO’s continuing commitment to facilitate, stimulate and support the social dialogue process as regards the reform of labour legislation at the national and regional level was emphasised. Participants were invited to identify areas where further legislative guidelines from CARICOM might be needed. Attention was drawn to the recent developments within CARICOM relating to migrant workers’ and their families’ contingent rights and the social floor.

8. The importance of international labour standards for economic reform and integration processes was highlighted. Globally, there was a trend towards paying greater attention to harmonization of labour standards and labour legislation. Reference was made to the recent policy of the United States of America to make acceptable labour standards a pre-requisite for the negotiation of free trade agreements.

9. Various approaches were being taken by regional bodies regarding the implementation of labour standards. In the European Union, directives had the force of law and labour reform was being pushed by economic demands. In other regional bodies, however, law making was the exclusive authority of the nation state. In these bodies, declarations on labour standards constituted the basis for the reform process.

10. ILO experience globally continued to demonstrate that no matter what modalities were adopted, the key to successful labour law reform was in the social dialogue process.

11. Noting that the CARICOM model legislation had been developed more than a decade ago, participants were urged to consider the extent to which the models met contemporary challenges. Particular attention was drawn to new and emerging issues such as HIV, access to labour justice, child labour, migrant worker and trafficking in persons, which had emerged since the adoption of the model laws.
12. Participants were invited to formulate their expectations for the workshop and their expectations fell into five different characterizations:

- understanding better the role of social dialogue and collaboration in labour legislation;
- learning about the experiences of other countries in the implementation of CARICOM model labour laws;
- understanding the relevant issues for the modernization of occupational safety and health laws;
- understanding the gaps that could/should be addressed in the reform of labour law; and
- understanding the impact of implementing the CARICOM Model labour laws.

III. Background of CARICOM Model Laws

13. There was consensus that the social partners and indeed all working women and men needed to be better informed about the CARICOM Model Labour Laws as well as their own national labour laws. Participants were generally critical of the process used to develop the Model Labour Laws and the lack of action at national level to bring the Models to the attention of the tripartite partners. Participants were informed of the involvement of the Caribbean Congress of Labour (CCL) as well as the Caribbean Employers’ Confederation (CEC), and the ILO Subregional Office for the Caribbean, in the development and dissemination of the model laws.

14. While some participants noted that there had been a national social dialogue process on the issue of domesticating the Models, others noted that the national tripartite mechanisms were insufficiently developed to allow an effective social dialogue process on the model laws.

15. All participants agreed on the importance of the social dialogue process at regional as well as national level and as such they recognized that they had a major role to play in ensuring that effective social dialogue took place on labour issues at the national level. Representatives of employers and workers were encouraged to take the initiative to ensure that Governments facilitated the process of social dialogue on labour standards and legislation.

16. One of the weaknesses identified as regarded the process used by CARICOM to develop and encourage adoption at national level of the Model Laws, was that there were no provisions for reporting on and monitoring of implementation by national governments. Hence, over a decade had now passed without any substantive review of the compliance of national labour legislation with the Model Laws.

IV. Reviews of Compliance of National Labour Legislation with CARICOM Model Labour Laws and Relevant International Labour Standards

17. Attention was drawn to the Reviews and the fact that they were based essentially on the current labour legislation, even though legislation was not the exclusive source of law in most of the countries. The Reviews did not examine practice existing in the countries relating to collective agreements, judicial and arbitral decisions, and
national policies. Participants were therefore urged to draw attention to any judicial decisions or practice within their country that should be taken into consideration in a comprehensive and exhaustive review of legal compliance with the CARICOM Model Labour Laws.

18. The Models were intended to serve as a guide and a benchmark. Countries would have different approaches to achieving the labour standards inherent in the Model Laws and national circumstances needed to be taken into consideration. Participants were encouraged to identify and examine those provisions within the Model Laws where practical difficulty might be encountered in securing compliance as well as new issues and circumstances that have developed affecting the world of work.

**Session 1: Termination of employment**

19. While the principal objective of the CARICOM Model Legislation on Termination of Employment was to give effect to ILO Convention No. 158 on Termination of Employment, it was also observed that the provisions of the Model went beyond the scope of the ILO Convention. The Model had additional provisions relating to the employment contract, continuity of employment and workplace disciplinary mechanisms.

20. While ILO Convention No. 158 laid down procedures, conditions and criteria for the exclusion of certain permitted categories of employed persons in so far as necessary, it was emphasized that the excluded categories of workers under this Convention were to be subject to adequate safeguards in relation to the tenure of their employment. The Model however only provided exemptions for Part 11 on the employment contract and no exemption from the provisions relating to termination of employment.

21. All OECS countries had legislation which sought to protect employees from unfair dismissal. However, the exemptions granted from the scope of application of some of the laws went beyond the requirements of the ILO Convention No. 158 and the Model Legislation. Examples of exemptions in the laws of OECS countries included non-established Government employees, stevedores, lightermen, longshoremen and managerial employees, and master or crew of fishing vessels. In addition, there was no indication that these exclusions were the result of consultations with employers’ and workers’ organizations and there were no in-built safeguards with respect to tenure of employment of these excluded categories of workers.

22. All OECS countries had legislative provisions on continuity of employment. However, the provisions in some of the countries were limited to successor employer; they were silent on the effect of interruptions from work due to leave, suspension, lawful trade industrial action, civic duty etc. on continuity of the employment relationship.

23. All OECS countries had legislative provisions requiring a valid reason connected with capacity or conduct or the operational requirements of the enterprise for dismissal. They also had legislative provisions, which prohibited termination of employment on certain grounds. However, not all the prohibited grounds mentioned in the model legislation were included in the legislation of some countries. Among some of the prohibited grounds not included in the legislation of some OECS countries were HIV status, disability, family responsibilities, and marital status.
24. Another gap in the laws of some OECS countries concerned the omission of the requirement to provide information to, and have consultations with, the representative trade union prior to retrenchment. Some countries did not include an Act of God as an event, which could give rise to retrenchment, with the consequential need to pay severance benefits.

25. The issue was raised as to whether contemporary economic and workplace circumstances necessitated a greater measure of flexibility on the question of retrenchment procedures. It was suggested that in the reform of labour law, OECS countries might wish to consider whether there was need for review of redundancy laws in the light of current economic circumstances.

26. Participants were informed of the special provisions in Saint Kitts and Nevis that provided for priority payment to employees in the event of retrenchment through compulsory contributions to a national severance fund, which was administered by the National Insurance Board. This fund guaranteed the payment of severance benefits to retrenched workers. Dominica also mentioned that they had a similar scheme.

27. The issue of termination of employment connected with sexual harassment was also raised. It was submitted that this issue was traditionally neglected in legislation and as a workplace issue. The issue was however gaining attention in OECS countries, some of which were actually reviewing their laws to provide for the protection of workers from sexual harassment.

28. On the subject of Notice, one participant considered that it was unfair to employers to have the obligation of paying compensation to employees in lieu of notice of termination of employment, while employees were free to terminate their employment without any penalty for failing to give notice. In response, it was submitted that the failure of an employee to give notice of termination could be considered a breach of contract. Such a breach could give rise to an action for damages in respect of any reasonably foreseeable losses naturally arising from such breach that an employer might incur.

29. The question of abuse of the right to terminate employment during the probationary period was also raised. Participants were pointed to judicial decisions, which laid down the principle that an employer's obligation to have a valid reason for dismissal was applicable during the probationary period of an employee. It was suggested that in the reform of their laws, countries might wish to make express provision that protects an employee from indiscriminate and unfair dismissal during the probationary period.

30. On the issue of the legal obligation for a written contract or statement of employment particulars to be given to an employee, it was noted that the practice was not always observed with respect to certain workers, or example daily paid workers. However, in cases where there were oral contracts of employment, an employee should, at his or her request, be given a written contract of employment.

31. It was noted that only Antigua and Barbuda and Saint Lucia had ratified ILO Convention No. 158. Participants of those countries yet to ratify this Convention were
urged to consider what action should be taken at the national level to promote ratification and compliance with the Convention, which contained flexibility clauses regarding the scope and manner of application.

**Session 2: Registration, status and recognition of trade unions and employers’ organizations**

32. The primary objective of this CARICOM Model Legislation was to give effect to ILO Conventions No. 87 on Freedom of Association and No. 98 on Collective Bargaining. These two ILO Conventions were among the eight core Conventions which all Members of the ILO, whether they had ratified the specific Convention or not, were required to promote and respect. All OECS countries had ratified ILO Conventions No. 87 and No. 98.

33. The model legislation had provisions relating to freedom of association, registration and status of trade unions and employers’ organizations, safeguards for members of organizations, recognition of bargaining rights, and collective agreements.

34. Freedom of association included the following rights:
   - the right of workers and employers to establish and join organizations of one’s own choosing without prior authorization;
   - the right of workers’ and employers’ organizations to draw up their own constitutions and rules, to elect their representatives in full freedom and organize their administration and activities;
   - the right to strike and take other forms of industrial action;
   - the right not to be liable to be dissolved or suspended by administrative authority;
   - the right of organizations to establish (con)federations and to affiliate with international organizations.

35. Both ILO Convention No. 87 and the CARICOM Model provided for effective remedies in respect of any complaint with respect to infringement of these rights.

36. It was noted that the Model provided that members of the disciplined forces might be exempted, subject to national regulations for rights of association of police, fire and prison forces, whereas the ILO Conventions only permitted the exclusion of police and the armed forces.

37. The Model also required that a registered trade union and employers’ organization should be deemed to be a body corporate with the capacity to contract and to hold property and to sue and be sued in their own name. It was explained that the term “corporate status” meant legal personality separate and apart from the members of the trade union or employers’ organization. It should not be taken to mean that the trade union or employers’ federation must have the organizational structure or other requirements of a company. The participants then submitted that the term “legal personality” should be used in the Model text rather than the term “corporate status” in order to clear up any misconception that might be associated with that term.

38. On the issue of recognition of bargaining rights, the Model, but not ILO Convention No. 97, provided for a tripartite body for certification. It also provided for employer recognition of a trade union. Some participants argued against a tripartite body for certification and the possibility of employer recognition of trade unions. It was argued
that the tripartite body was too bureaucratic and an unnecessary administrative burden. It was also argued that employer recognition of a trade union could be used to subvert the independence of the trade union. It was noted that there were some differences in OECS countries regarding the institutional arrangements and procedures for recognition of trade unions.

39. There was also some debate on the issue of successor rights and obligations, in particular whether acceptance of severance pay by all the workers in a bargaining unit terminated the validity of the collective agreement of the predecessor employer. It was noted that the CARICOM Model on Termination of Employment provided for continuity of employment where a business or part was sold or transferred or otherwise disposed of, except where severance pay was accepted by the workers. The provision on successor rights and obligations in the CARICOM Model Legislation was silent on the effect of acceptance of severance pay on the continued validity or the recognition status of the trade union.

40. Attention was drawn to a judicial decision in the Eastern Caribbean Judiciary which ruled that acceptance of severance did not affect the validity of the collective agreement or the recognition of trade unions. It was suggested that - for the avoidance of any doubt - countries, in reforming their labour laws, might wish to make an express provision as whether the acceptance of severance pay by all the workers in a bargaining unit prior to the sale or transfer of the business had any effect on the continuity of the collective agreement or the bargaining status of the recognised trade union.

Session 3: Equality of opportunity and treatment in employment and occupation

41. The objective of the CARICOM Model Legislation on Equality of Treatment in Employment and Occupation was to give effect to ILO Convention No. 100 on Equal Remuneration for Work of Equal Value and ILO Convention No. 110 on Equality of Opportunity and Non-Discrimination in Employment and Occupation. The principal ILO Convention requires measures to be taken to eliminate discrimination in employment and occupation on seven (7) grounds; namely race, colour, sex, religion, political opinion, national extraction or social origin. Other ILO Conventions require measures against workplace discrimination based on disability, maternity, trade union affiliation/activities, migrant status or family responsibilities. The Model included additional grounds such as disability, ethnic origin, family responsibilities, pregnancy and marital status, indigenous population and age, except for the normal retirement age and restrictions on child labour which were acceptable under ILO jurisprudence.

42. The list of prohibited grounds of discrimination was not an exhaustive one. Both ILO Convention No. 111 and the Model Law provided member States with the right to determine, after consultation with the social partners, other prohibited grounds. ILO jurisprudence had also identified other grounds on which workplace discrimination should be eliminated, including real or perceived HIV status, which according to comparative labour law trends were being frequently included in modern equality of opportunity legislation. In one OECS country, illegitimate birth was a prohibited ground. In addition, some countries outside the Caribbean had prohibited discrimination on the grounds of sexual orientation.
43. Discrimination was defined as any distinction, exclusion or preference, which had the effect of nullifying or impairing equality of treatment. The model legislation prohibited not only direct discrimination but also indirect discrimination. The participants discussed how that latter concept had evolved and often occurred in their countries. Attention was drawn to the all-inclusive scope of the Model Law and the ILO Conventions. The equality of opportunity requirement applied equally to private sector and public sector employment, to local and foreign employees. It also applied not only in recruitment but also with respect to conditions of employment, training opportunities, occupational safety and health, stability in employment and wages (including pensions, etc.). The obligation was imposed not only on employers but also any person acting on behalf of an employer, such as an employment agency.

44. While some countries’ equality of opportunity and anti-discrimination law was laid down in their Constitution, there were certain limitations associated with this type of arrangement. Constitutional guarantees tended to exclude the private sector or foreign workers as they were binding on the State. There was also the issue of whether such constitutional provisions were justiciable for individuals, and the ability of workers and employers to access the appropriate complaint forum in practice. It was recommended that there should be specific legislation in addition to the constitutional provisions in order to ensure that there are no exclusions in terms of its applicability.

45. The model legislation applied not only to employment but also to occupation and imposed anti-discrimination obligations in respect of professional partnerships, professional or trade organizations, qualifying bodies, vocational training bodies and employment agencies. The Model Law also extended to the provision of goods services and facilities.

46. Both ILO Convention No. 111 and the Model allowed for temporary measures to protect certain groups, which were specially disadvantaged (often called affirmative action). Thus, a country might take special measures to ensure that women who were traditionally excluded from certain employment opportunities be given special treatment on a temporary basis until their ability to compete with men on an equal footing for labour market opportunities was achieved.

47. There was some debate as to the anti-discrimination requirement in the provision of goods, services and facilities. It was explained that this requirement was meant to cover two situations. One was internal to workplace conditions within the control of the employer where workers on the basis of race, sex etc. were given special facilities or privileges to the exclusion of other categories of workers, for example a new, improved and more productive machine which placed certain workers in a more beneficial position in terms of salary, promotion opportunity etc. The other was external to the company where a service supplier for example would discriminate in the supply of its service, and thereby indirectly affect a group of employees on the basis of some prohibited ground of discrimination.

48. All OECS countries had ratified ILO Convention No. 111 and had legislative provisions regarding equality of opportunity and non-discrimination in employment. However, some OECS countries did not include disability, real or perceived HIV status and family responsibilities as prohibited grounds for discrimination. In addition,
most OECS countries had no legislative provision regarding equality of opportunity in occupation or professional partnerships.

49. With regard to ILO Convention No. 100 on equal remuneration, most OECS countries’ law restricted the equal remuneration principle to “equal pay with the same employer”. It was pointed out that the principle of equal remuneration applied not only to pay but to all terms and conditions of work including allowances, etc. and that in applying the concept of equal remuneration one had to permit comparisons to be made with work of equal value in the general economy and not merely the specific workplace.

Session 4: Occupational safety and health (OSH) and the working environment

50. The CARICOM Model Law on Occupational Safety and Health (OSH) and the Working Environment was an attempt to modernize the laws of CARICOM member States to take into consideration contemporary circumstances and relevant international labour standards. It did not take up the provisions of ILO OSH instruments by name, and it was pointed out that the Model had been adopted well before the ILO’s most recent (2006) framework Convention and Recommendation on this subject.

51. The Model had provisions relating to:
   ▪ registration of industrial establishment and mines;
   ▪ administration;
   ▪ general occupational safety and health requirements;
   ▪ duties of employers, occupiers, owners, supervisors and workers;
   ▪ hazardous chemicals, physical agents and biological agents;
   ▪ enterprise safety and health committees and representatives;
   ▪ notification of occupational injuries, accidents and deaths;
   ▪ enforcement; and
   ▪ offences and penalties.

52. The Model was applicable to the State and all branches of economic activity and to all employers and all workers. The only exception was in relation to non-commercial work performed by the owner or occupant of a private residence. On the other hand the Model applied to domestic workers. The OSH Model was also mandatory and prevailed over other legislative provisions.

53. All industrial establishments and mines were required to be registered within thirty days of establishment. The particulars of registration included the nature and object of the process to be carried out, a list of hazardous chemicals, physical agents and biological agents to be used, and whether the industrial establishment or mine was a hazard installation.

54. The State was required to provide adequate resources and personnel for the administration of the legislation, including the appointment of Inspectors and a Chief Officer to enforce the law. The State was also required to appoint a tripartite National Advisory Council to advise the Government on policy and regulatory matters, to recommend OSH programmes, enforcement and implementation and to promote public awareness of OSH.
55. Certain precautions were required to be observed in respect of dangerous machines. Persons under the age of 18 years were prohibited from working on dangerous machines. Adults required to work on dangerous machines must have prior instructions on the dangers and precautions to be observed, be given sufficient training and be adequately supervised by an experienced and knowledgeable person.

56. In addition, all persons exposed to risks must be issued with and wear suitable protective clothing and devices. There must be a conspicuous notice where protective clothing or devices should be worn. Reference was made to the recent positive trend in the construction industry to use these notices and to forewarn the general public and workers of the risks and safety requirements.

57. Employers had a duty to provide a safe, sound, healthy and secure working environment. They must take reasonable precaution to protect not only employees but the general public from risk of harm. Employers must provide adequate equipment, materials and protective devices, information, instruction and supervision of workers. They were also required to have workplace OSH Committees with the representative trade union or workers’ representative, with whom an OSH policy should be formulated and continuously reviewed.

58. Supervisors were required to take every precaution for the protection of workers and must ensure that workers worked with protective clothing and observed safety procedures. Workers had a duty to wear protective clothing and devices, report to the employer and/or supervisor the absence or defect of any protective clothing or device, and to exercise reasonable care not to injure his or herself or others. Comments were made about the tendency of some workers to avoid wearing safety gear because of perceived inconveniences. The employer’s liability might be reduced but not exonerated as a result of the failure of the employee to use the safety device.

59. Workers also had the right, subject to certain conditions and procedures, to refuse to work for safety and health reasons. The worker must have good reason to believe that any equipment, material or device that he or she had to use presented a serious and imminent danger to life or health. In such circumstances, the worker had a duty to report forthwith the circumstances of his/her refusal to work to the employer who must investigate such a matter. The employer had a right to complain to the Minister that he or she had reasonable grounds to believe that the worker acted without reasonable cause or in bad faith.

60. In terms of enforcement, the Inspector had the right to enter any workplace without notice or a warrant, inspect any workplace, test any equipment etc. He/she also had the right to clear a workplace until the danger was removed. The employer had a right of appeal against the order to clear the workplace.

61. Some participants argued that the appeal process against an order to clear or close a workplace should be as expeditious as possible because of the consequences for an employer of a prolonged closure of the business. Also, the question was raised as to who should compensate an employer for losses incurred arising from an illegal or invalid or unreasonable closure of a business. It was suggested that these matters be considered by the social partners and be addressed in legislation.
62. Safety and health requirements had to take into consideration the special needs of women and men workers with a disability.

63. It was submitted that all countries should have legislation providing for enterprise OSH Committees. Pending such legislation, trade unions should ensure that adequate OSH provisions were included in collective agreements. The absence of legislation was no excuse for not including OSH matters in a collective agreement.

V. CARICOM Social Floor and Other Initiatives

64. The workshop participants were informed of recent initiatives taken by CARICOM on the establishment of a social floor as well as proposals for a Protocol on Contingent Rights as an integral part of the arrangements for the CARICOM Single Market and Economy (CSME).

65. While Article 238 of the Revised Treaty of Chaguaramas had a built-in agenda for supplemental protocols, a decision had been taken to introduce Contingent Rights (ancillary rights necessary for the proper enjoyment of an established right under the Treaty). A consultancy on Contingent Rights was undertaken in 2006.

66. The second initiative concerned the establishment of a harmonized social floor. Trade unions and Heads of Government were calling on the CARICOM Secretariat to provide information on labour rights in receiving member States. Their main concern was that equal treatment with respect to workers' rights was facilitated in the various CARICOM countries.

67. The CARICOM Council for Human and Social Development (COHSOD) met in November 2006 and agreed that the ILO's 8 core Conventions and ILO Conventions No. 97 and No. 143 on Migrant Workers would constitute the social floor. Participants were urged to consider whether there was need for any additional labour standards to be included in the social floor.

68. It was noted that the Inter-Sessional Meeting of the Conference of Heads of Government in February 2007 agreed that member States should complete consultations at the national level in order to facilitate a decision on the expansion of categories for free movement at this year's Conference of Heads. In 2006 the Conference requested that member States should give particular consideration to the granting of free movement to workers in the hospitality industry, artisans, domestics, nurses and teachers who were non-graduates.

69. In this regard the CARICOM Council for Trade and Development (COTED) approved the procedural and administrative arrangements for the free movement of service providers seeking to enter another member State on a temporary basis, taking into account the objectives of the CSME and the agreed principle that any new procedure should not be more onerous than prior arrangements for the movement of these persons.

70. With respect to the movement of persons establishing a business, COTED had agreed that the procedures should also be simplified and harmonized. The Secretariat had been requested to undertake necessary follow up work in this area.
71. Attention was drawn to the question of whether the social floor and contingent rights
should take the form of a Protocol or a separate Intergovernmental Agreement. The
advantage of a Protocol would be that the rules would be binding and remedies
would be available at the Caribbean Court of Justice. The Protocol would require
CARICOM member States to provide these rights on the basis of non-discrimination.

72. It was noted that no Caribbean country had ratified ILO Convention No. 143 on
migrant workers. ILO Convention No. 143 provided rights to the accompanying
family of migrant workers. In addition, the United Nations had recently adopted the
Convention on the Protection of the Rights of All Migrant Workers and Members of
Their Families, which adopted many of the provisions of ILO Convention No. 143.
Participants were urged to promote the ratification by their countries of both ILO
Convention No. 143 and the UN Convention on Migrant Workers. It was noted that
most of the rights in CSME involved migration. Thus, the issue of the migrant worker
was an essential element of arrangements for the social floor.

73. The point was made that another element to be considered by CARICOM was the
issue of trafficking, especially in children, which was present in all regions of the
world. It was noted that freedom of movement might have implications for the
trafficking in persons. Another participant indicated that issues such as crime and
security and access to education were relevant in any discussion of CSME and the
social floor.

74. One trade union participant questioned why trade unions were not included in the
category of workers who enjoyed freedom of movement. It was suggested that trade
unions across the region, especially those representing workers in similar industries
or employed by the same employer, might wish to ensure greater collaboration and
information sharing. In particular, they should make arrangements to ensure that
when their members were given temporary assignments in another country that they
become entitled to representation by counterpart trade unions.

75. In conclusion, there was a significant role for the social partners to play in the
development of the CARICOM social floor. The social partners were urged to study
the issues and to make their voices heard. The participants were informed that the
Caribbean Employers’ Confederation (CEC) and the Caribbean Congress of Labour
(CCL) were partners in the process. Participants agreed that participation of the
social partners would be strengthened if their national affiliates considered the issues
and brought their views to the attention of their regional bodies.

76. On the issue of transfer of social benefits, the Workshop was informed that the
Agreement for the Transfer of Social Security Benefits was in place in all Member
States except Suriname. Suriname did not have a comparable social security system
and accordingly could not implement the Agreement.

VI. Participatory Law-Making: Introduction, Legislative Plan and Drafting
Techniques

77. The workshop discussed the reasons for the reform of labour law, which could
include modernization in the fact of globalization, changed circumstances (such as
the end of the Multifibre Agreement), free trade agreements, change of government and other reasons. According to an ILO poll on the reasons for reform of labour law, reforms had been necessary because of the end of communism (freedom of association), response to democratization, the end of a repressive regime (like Apartheid), new national policy (child labour), new areas not recognized when past labour laws had been drafted (HIV), removal of archaic and obsolete concepts and practices (manservant, master and servants, women considered to be minors), to promote efficiency and productivity (to be responsive to liberalized markets), to comply with ILO Conventions, to remove duplication of and inconsistencies within texts, to introduce gender sensitive language, and to pave the way for future ratification of ILO Conventions.

78. The discussion encompassed aspects of comparative labour law and what kind of labour law reforms were currently being introduced. It was noted that there was a movement towards consolidation of labour laws into one Labour Act or Code, or through the reduction of several outdated texts into four or five key texts, with much detail being placed in accompanying regulations or being left to the social partners as the subject for collective bargaining. This had proved useful for investment promotion since investors were able to find all labour laws in one or two principal documents. Three of the OECS countries (Antigua and Barbuda, Grenada and Saint Lucia) had enacted labour codes.

79. One requirement strictly observed by the ILO in assisting member States to reform their laws was that there must be social dialogue in preparing the policy instructions, in other words participatory labour law making and tripartite drafting processes. Consultations as described in ILO Convention No. 144 – widely ratified by OECS States – were an ideal way of accomplishing this. It was noted that the Constitution of Portugal required consultation with workers’ representatives in the process of developing labour legislation. Other countries had tripartite bodies or task forces that were involved in setting the labour law reform agenda and in the law making exercise itself. Task forces on labour legislation would normally include representatives from the Ministry responsible for Labour, and equal representation of key workers’ and employers’ organizations as well as national labour law specialists,. It might also include on an ad hoc basis other concerned Ministries and civil society organizations.

80. The initial drafting could be done by member States, or could be handled by national experts contracted within ILO-executed technical cooperation projects. ILO’s assistance was advisory and would illustrate the comparative range of legal provisions that were working in other countries with similar cultural, economic and social backgrounds and highlight pitfalls and weaknesses of various options as well. Normally, the member State would produce a skeleton draft or a concept paper, which would be the subject of a stakeholders’ conference chaired by the Minister responsible for Labour. Once clear drafting instructions were available, drafting could commence and be fine-tuned in further tripartite workshops as the exercise progressed. The ILO would take a neutral advisory position, using the benchmarks of the eight core Conventions, any ratified Conventions and comments pending from the ILO supervisory bodies, national policies already adopted with ILO assistance (such as a Gender Policy or Small- and Medium-size Enterprise (SME) policy) and refer where appropriate to the member State’s commitments under ratified UN treaties.
81. The observation was made that a common practice of some governments and parliaments these days was to require cost and benefit analyses of proposed laws before enactment. It was suggested that the cost/benefit analysis helped with the mobilization of parliamentary support, and de-bunked the myth that labour legislation was a burden to job growth and put off investors.

VII. Freedom of Association, Collective Bargaining and the Right to Strike

82. The relevant ILO Conventions on Freedom of Association were Conventions No.98, 154 and 141. It was observed that freedom of association legislation was being reformed to cover previously exempt categories of workers. It was noted Convention No. 154 had been adopted to cover the loophole relating to the public servants exemption in Convention No. 98. In addition, national laws were increasingly making provisions for the freedom of association of the police, with collective bargaining rights being exercised through representative bargaining councils. However, the armed forces generally remained outside the scope of freedom of association legislation.

83. Convention No.154 provided the right to collective bargaining for public servants but not necessarily within the same framework as the private sector. It recognized that collective bargaining in the public service might need to be addressed differently from other branches of the economy. In practice, their service conditions were often approved by parliament and were characterized by being exhaustively covered by regulations, although a trend in many countries was to extend the private sector regulatory framework to them.

84. Article 3 provided for collective bargaining with workers’ representative, subject to the proviso that the existence of these representatives should not be used to undermine the position of workers’ organizations. Article 4 sought to guarantee effective means of collective bargaining. It called for the provisions of the Convention to be given effect by national laws or regulations. It was noted that in newly independent countries, the right to strike and the right to organize were put in national constitutions. Article 5 was very important. Everything should be done to promote collective bargaining for all employers and all groups of workers. The establishment of rules of procedure between employers’ and workers’ organizations should be encouraged. Collective bargaining should not be hampered by the absence or inadequacy of procedural rules. Article 7 provided for prior consultation in the development of measures to promote collective bargaining.

85. Good practice for any legal text on freedom of association and collective bargaining included definitions, rights and duties of the parties, subject matter of bargaining, rules, time limits, poll, certification bodies, appeals from organization that might not have been certified, administration, prohibition of anti-union discrimination, and sanctity of agreement reached, and generally all the rights of Conventions No. 87 and 98. Attention was drawn to instances where governments attempted to intervene in collective bargaining to establish wage restraint/freezes in response to fiscal stringencies. A number of complaints had been brought to the attention of the ILO. The supervisory bodies had developed jurisprudence that accepted that in certain narrow exceptional circumstances governments could intervene in collective bargaining outcomes. Such measures should however be temporary, applied as an
exceptional measure and only to the extent necessary (e.g. in terms of sector coverage) and should be accompanied by adequate safeguards to protect the standard of living of the workers affected.

VIII. The Employment Relationship: ILO Convention No. 158 and Recommendation No. 198

86. The problem of who is or is not in an employment relationship – and what rights/protections flow from that status – has been highlighted in recent decades by major changes in the work organization and how legal regulation has or has not adapted to those changes. Worldwide, including in least developed countries, there are difficulties in establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are either not clear, or where there has been an attempt to disguise the employment relationship, or where inadequacies or gaps exist in the legal framework, or in its interpretation or application: this gives rise to situations where contractual arrangements can have the effect of depriving workers of the protection they are due. Particularly vulnerable workers appear to suffer from such situation. In addition, member States of the ILO and the social partners have emphasised that the globalized economy has increased the mobility of workers who are in need of protection, at least against circumvention of national protection by choice of law, and that, in the framework of trans-national provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is. Multi party relationships involving employment agencies, men and women doing work and end users also gave rise to issues. The Conference debate on the problem recognized that there is a role for international guidance to Members to achieve protection through national law and practice, and that such protection should be accessible to all. There were an increasing number of cases on this – often involving health care workers - before the UK Employment Appeal Tribunal.

87. To respond to the member States call for help in establishing indicators and tests for who is in an employment relationship, the 2006 International Labour Conference adopted Recommendation No. 198 on the Employment Relationship. Part 1 called upon Members to formulate and apply a national policy to clarify the scope of the law in order to guarantee effective protection of workers in an employment relationship.

88. Part 11 addressed the issue of how to determine the existence of an employment relationship. Essentially, one had to examine the real nature of the relationship, consider the usefulness of legislating a rebuttable presumption and primacy of the facts test as well as factors such as the performance of the work when identifying if there was an employment relationship and if so, who exactly was the employer.

89. Paragraph 13 identified the indicators that might be used to determine the existence of an employment relationship. These included:
   - the fact that the work was carried out according to the instructions and under the control of another party; involved the integration of the worker in the organization of the enterprise; was performed solely or mainly for the benefit of another person; was carried out personally by the worker; was carried out within specific working hours or at a workplace specified or agreed by the party requesting the
work; was of a particular duration and had a certain continuity; required the worker’s availability; or involved the provision of tools, materials and machinery by the party requesting the work;

- periodic payment of remuneration to the worker; the fact that such remuneration constituted the worker’s sole or principal source of income; provision of payment in kind; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

90. Attention of the workshop was drawn to the *South African Code of Good Practice on the Employment Relationship*, which was issued in 2006 by that country’s main tripartite decision-making body NEDLAC. Tripartite consultations were held prior to the establishment of the Code. It used gender-neutral language. It made special provision for vulnerable groups. It contained a rebuttable presumption that an employment relationship existed with the burden of proof to show that there was no employment relationship being shifted to the employer.

**IX. Tripartite Consultation and the Role of Tripartite Institutions in Labour Law Reform: ILO Convention No. 144**

91. ILO Convention No. 144 adopted in 1976 was designated as a priority Convention and was widely ratified (but not by St Lucia and St Vincent and the Grenadines). It ensured consultation by workers’ unions and employers’ organizations and Governments on international labour standards, and the accompanying Recommendation encouraged a broadening of such consultations to general social and economic topics. It was a key instrument for social dialogue generally.

92. Article 5 indicated the areas for consultation were: a) government replies to questionnaires concerning items on the agenda of the ILC and government comments on proposed texts to be discussed by the Conference; b) the proposals to be made to the competent authority in connection with the submission of Conventions and Recommendations; c) the re-examination at appropriate intervals of un-ratified Conventions and Recommendations and to consider what measures that might be taken to promote their implementation and ratification; d) questions arising out of reports to be made at the ILO; and e) proposals for the denunciation of ratified Conventions.

93. Consultations had to be effective and meaningful. They had to be so oriented as to allow government to take a decision. It was more than providing information but it did not necessarily mean that a tripartite decision was always obligatory and that consultations ‘failed’ if agreement was not reached. There should be equal representation by the social partners in tripartite bodies even though the numbers of representatives may vary. Where no consensus was reached, the Government had the right to determine the final decision.

94. Under Article 1, consultations had to be held with the most representative organizations of employers and workers enjoying the right of freedom of association. Procedures should be determined in each country according to national practice. For example, where the decision to be taken involved a particular sector, consultation could be held with sectoral trade unions and sectoral employers’ organizations.
However, the most representative organization should be informed of such consultation.

95. The participants recognized that social dialogue was critical to policy formulation and law making and the ratification of Convention No. 144 should be a pre-requisite for the ratification of other Conventions.

96. Attention was drawn to countries, such as Trinidad and Tobago, which demonstrated good practice on consultations. They had a special ILO Committee to prepare for the International Labour Conference as well as for drafting the various reports required under the supervisory system and for standard-setting. Training of administrative staff that supported such Committees was important, and recognized in Article 4 of Convention No. 144. Such training could be accessed from the ILO.

97. Participants discussed the advantages of ratification of Convention No. 144 for employers’ and workers’ organizations. They submitted that ratification of that Convention provided the opportunity to be involved in the decision-making process.

X. Discrimination and Gender Issues: ILO Convention No. 100 and No.111

98. All CARICOM member States, except Suriname, had ratified ILO Conventions Nos. 100 and 111.

99. Over the last decade most labour law reforms had included prominent provisions on eliminating workplace discrimination and on achieving equal pay for work of equal value; there was also a new focus on measures to eliminate sexual harassment at the workplace. The laws focused on employers’ liability, embracing both civil and criminal law procedures. It was acknowledged that some issues were subtle and at times some women and men did not know that they were being discriminated against or sexually harassed. Participants were urged to be advocates for the elimination of sexual harassment.

100. Alluding to trends in the region, it was argued that updating of legislation had generally lagged behind international standards and comparative trends; that some countries had introduced new legislation concerning discrimination such as gender equality through affirmative action and sexual harassment; that discrimination at the workplace persisted but remained unreported due to lack of workplace policies and procedures to remedy or prevent it; and that many persons still did not know their rights and responsibilities.

101. As many countries had banned discrimination on grounds of sexual orientation and in view of the European Union’s Directive along these lines, the ILO supervisory bodies were noting more and more instances of legislative banning of such human rights violations (the 2007 Global Report under the ILO Declaration of Fundamental Principles and Rights at Work and its Follow-up “Equality at Work: Tackling the challenges” contains a list of such laws).

102. It was indicated that there should be sufficiently dissuasive penalties for perpetrators and exemplary compensation for victims of sexual harassment. There
should also be workplace policies and procedures to prevent intimidation of victims of sexual harassment.

103. The issue of whether the policy refusal by some employers to hire relatives of workers could be considered to be discrimination. It was argued that such policies were usually grounded in ethical considerations and were meant to prevent nepotism. However, such policies should not be used to place certain workers at an unfair disadvantage. What was required was an open and transparent process to ensure that there was no nepotism and that the prohibition of employment of family members should be restricted to situations where there could be a conflict of interest or other valid reasons.

104. The question was raised about the legitimacy of the policy, which required a worker to resign if he or she became married to another worker in the same workplace. In reply, it was indicated that such a scenario might be considered discrimination in the grounds of marital status.

105. On the issue of sexual harassment, it was noted that the conduct must be unwelcome, unreasonable and offensive to the recipient. The reaction to the conduct was the determining factor, not the intent of the perpetrator.

106. The issue was raised as to whether a third party could make a valid complaint concerning sexual harassment. In reply, reference was made to cases where an affair between two workers/worker and supervisor created a hostile environment in the workplace and where a third party was able to make a valid complaint which was acted upon by the employer.

107. The penalties for sexual harassment should provide for disciplinary action, including dismissal. The legislation should give a definition of both direct and indirect discrimination. Procedures should be clear and fair and ensure due process for all parties. There should also be protection against victimization. There should also be a wide range of damages, remedies (including reinstatement if the victim so wished) and sanctions. Enterprises could have supplementary codes or guidelines to accompany legislation with effective administrative machinery with competence to handle complaints.

108. The question was raised as to whether an employer should ask an applicant for employment about his or her family status. The point was made that a lot depended on the intention behind the question. If the family status was not essential to the nature of the job, then it would be discriminatory. One participant noted that in the hospitality industry, applicants were asked routinely whether they had families that would affect their availability to work at night or on Saturday or about their religious background. Employers might want to discriminate against females with young children.

109. In conclusion, it was noted that a significant number of discrimination cases involved sexual harassment. It was suggested that workplace policies on discrimination should be encouraged and publicly displayed. In addition, it was suggested that it was in the business interests of employers to take action against discrimination at the workplace. The reasons included costs involved in responding
to discrimination complaints, staff turnover, poor productivity due to poor morale, image of the company and issues of morality.

XI. Forced and Compulsory Labour

110. While there was no CARICOM model on the topic of forced and compulsory labour, ILO Conventions No. 29 on forced labour and No. 105 on the elimination of forced and compulsory labour were among the 8 core Conventions. The ILO supervisory bodies had just produced a general survey on the application of these Conventions, which noted that despite their widespread ratification, forced and compulsory labour - as well as contemporary forms of slavery - still existed in the world today.

111. Turning attention to the provisions of these Conventions, it was noted that the Conventions defined forced or compulsory labour as all work required under a threat of penalty and for which the person had not offered himself or herself voluntary. The practice of people working in very poor working conditions for low wages might not be forced labour since the Conventions based forced labour on coercion and non voluntarism. However, the ILO had held that where persons were not forced to work but the failure to attend work resulted in abuse and dismissal, the oppressive nature of such situation could be deemed to be forced labour.

112. The Convention also listed a number of types of work that were not to be considered forced and compulsory labour: namely any that was part of the normal civic obligation of a citizen e.g. jury service, school crossings; any work that was part of compulsory military service of a purely military character; any work extracted from a person as a result of a conviction in a court of law provided that the work is supervised by public authority and the prisoner is not hired out to private individuals or firms; any work or service exacted in cases of emergency like war or a calamity; and minor communal services of a kind directed at the interests of that particular community which could be considered a civic obligation. Such work or services had to be minor and for the community and the whole community had to decide not the tribal chief of the community.

113. It was noted that modern forms of slavery still existed. There were cases where women and men were engaged in forced labour also linked to sex and ethnic discrimination. The well-known case of Myanmar’s violations of Convention No. 29 had led the ILO’s Governing Body to use Article 33 of the ILO Constitution to inform the UN system of the continuous violation of fundamental principles by this member State in order for ties to be broken with it. Despite a recently signed Supplementary Understanding aimed at ending forced labour, the case remained on the ILO agenda and the Governing Body, at its March 2007 Session, had deferred the question of requesting an advisory opinion by the International Court of Justice for the time being.

114. ILO Convention No. 105 enunciated five areas of forced labour: namely as a means of political coercion or education; use of forced or compulsory labour for purposes of economic development; as a means of labour discipline; and as a punishment for participating in strikes; and as a means to enforce racial, religious discipline. According to ILO data, at least 12 million people were considered to be in
forced labour. Over 75% of the cases of forced labour were for economic exploitation, 10% were for military purposes and 10% for sexual exploitation.

XII. Elimination of Child Labour

115. There are two ILO Conventions on Child Labour which were considered core ILO Conventions: namely ILO Convention No. 138 on Minimum Age for Admission Employment and No. 182 on Worst Forms of Child Labour. Within the OECS, all countries had ratified the two ILO Conventions on Child Labour except Saint Lucia, which had only ratified Convention No. 182. The participant from Saint Lucia indicated that his country had been awaiting enactment and entry into force of its Labour Code to ensure that its laws were in compliance prior to ratification. It was indicated however that perhaps this position could be reviewed with a view to ratification before the Labour Code entered into force.

116. The minimum age for admission to employment should be no lower than the maximum age for compulsory education and should as a rule not be less than fifteen years. Exceptionally, countries with developmental challenges could set the minimum age at 14 years old provided there was a commitment to progressively increase the age to 15 years. The Convention also made allowances for light work by children two years below the minimum age provided that it did not take place during school hours and did not adversely affect their capacity to participate in school. The number of hours of permitted light work should be limited. Children from the age of fourteen may engage in apprenticeship programmes as an integral part of the education process.

117. Children were also allowed to engage in artistic performance, subject to certain procedure and conditions. Permission had to be sought from the relevant authority and the education and general development of the child must not be put at risk.

118. The worst forms of child labour consisted of any type of work that jeopardized health or morals of a child under the age of eighteen years. Participants expressed the view that they saw the sexual exploitation of persons under 18 as a criminal act and child abuse not child labour. They revealed that the Labour Departments had no authority to deal with child abuse. Such matters were dealt with by other Government agencies. They indicated that their authority was derived from Convention No. 150.

119. In response, it was suggested that the Government had responsibility to prevent child labour. While there were some aspects of child labour that had to be enforced by agencies other than the Ministry of Labour, the monitoring and enforcement of laws preventing child labour had to be coordinated by an inter-Ministerial team in which the Ministry of Labour, as a direct link with the ILO, had a key role to play.

XIII. Are Model Labour Laws Useful in the Context of the OECS and CARICOM? Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis of CARICOM Model Labour Laws

120. During this session, participants were requested to express their views on the strengths, weaknesses, opportunities and threats concerning the CARICOM Model Labour Laws. The results of this exercise are contained in Annex 3.

121. Occupational safety and health was defined as the science devoted to the anticipation, evaluation, implementation and control of those hazards or stresses arising from the workplace. The most modern ILO Convention on occupational safety and health was Convention No.187 adopted in 2006. It was designed to be promotional in nature.

122. Article 3 of the new Convention required each Member to promote a safe, healthy working environment by formulating a national policy. In formulating the national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, should promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that included information, consultation and training.

123. Members were also required to establish and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.

124. The observation was made that the private sector had certain concerns about OSH and needed more information and knowledge to appreciate the correlation between OSH prevention and profits. A good OSH programme led to better relationships between management and labour; improved public and in-house image; more efficient and productive working environment; reduce losses and legal actions; and compliance with laws. The benefits to workers of a proper OSH programme were better quality of life; decreased medical care and costs, decreased stress and increased productivity. For the organization, a good OSH programme could lead to reduced absenteeism.

125. The point was made that previously there had been inadequate focus and commitment for OSH issues in the workplace. The overall approach was reactive rather than preventative and there were few policies. On the whole, legislation was outdated. The current orientation was towards modernizing the laws, creating OSH agencies, and developing preventative strategies.

126. The ILO Conventions and Recommendations stipulated a tripartite approach to the development and management of OSH programmes. Enterprises were required to have joint OSH Committees with an advisory, educational, investigative and promotional role.

127. OSH concerns were expanding. They now included occupational and environmental illnesses and injuries, lifestyle based illnesses and injuries, HIV/AIDS in the workplace, substance abuse in the workplace, emergency preparedness and response, first aid and medical assistance, fire fighting and evacuation procedures.
128. Some important concerns were identified as: lack of OSH data on diseases, accidents, injuries etc.; inadequate research, investigations and reporting, information and advice; lack of workplace policies; inadequate attention given to development; inadequate implementation of workplace policies and practices; lack of or limited enforcement; inadequate inspection resources; little information or no communication with and amongst businesses; and little or inadequate OSH skills development across a wide range of technical areas and professions and in the workplace for managers, supervisors, employees.

129. Workplace policies should include purpose; scope; rights and obligations; definitions, and procedures for making complaints. They should include procedures for monitoring and tracking of the impact of the policy so as to make improvements, and should be publicly and widely disseminated.

130. One participant submitted that there was resistance in investigation of issues affecting workers. There seemed to be a perception that OSH was not the trade union’s business. At times, the trade unions were refused access to premises to investigate safety and health problems.

131. Another participant suggested that in the absence of effective legislation, the onus was on the trade unions to ensure that their collective bargaining agreements (CBAs) made adequate arrangements of OSH. Many CBAs in the region did just that.

132. Another participant noted that there was a lack of awareness on OSH issues. One should not expect employers to automatically cooperate if they were not made aware of the importance of OSH. In this regard, there should be awareness programmes to highlight the importance of compliance with good practices, including record keeping, reporting, sampling, monitoring and inspections.

133. In May 2001, the ILO Code of Practice on HIV/AIDS and the World of Work was developed. It was also endorsed by the United Nations General Assembly Special Session on HIV/AIDS. The ILO had considerable experience providing technical advice on the impact of HIV in the workplace, in including non-discrimination and protective provisions on it in labour law reforms, and assisting enterprises and their workers to develop workplace policies. The ILO Subregional Office for the Caribbean had national technical cooperation programmes on HIV/AIDS in Belize, Jamaica, Barbados, Guyana and Trinidad and Tobago.

134. During the last meeting of the ILO’s Governing Body, it was decided to put the issue of HIV and the world of work on the agenda of the International Labour Conference with the aim of developing an ILO Recommendation in 2009.

135. The role of the ILO was characterized as providing a social vaccine with important components being the Decent Work Agenda; its tripartite structure; international labour standards; comparative labour law information bases; and access to workplace. As a cross-cutting theme within the Office, there was a rich variety of research being analysed and disseminated about eliminating HIV-based discrimination, banned unauthorized testing, care and support and other areas key to mitigating the impact of HIV/AIDS in the world of work. The ILO supported the rights-based approach of the United Nations. It was important that countries had policies
incorporating human rights principles and laws. In addition, the Code encouraged governments, in consultation with the social partners and other stakeholders, to estimate the financial implications of HIV/AIDS and seek to mobilize funding locally and internationally for their national AIDS strategic plans including, where relevant, for their social security systems.

136. One participant drew attention to immigration laws and procedures, which required medical tests, including testing for HIV, for persons applying for citizenship based on descent or for work permits. The participant observed that the testing for foreign workers brought to the fore the issue of differential treatment for local and foreign workers.

137. Another participant reported that in his country a foreign worker would not be denied a work permit merely because he/she tested positive for HIV. Rather, there was a requirement of the work permit that such a worker must avail himself or herself of counselling and treatment.

138. Reference was made to the enforcement measures in the Code of Practice. The competent authorities were encouraged to supply technical information and advice to employers and workers concerning the most effective way of complying with legislation and regulations applicable to HIV/AIDS and the world of work. They should strengthen enforcement structures and procedures, such as factory/labour inspectorates and labour courts and tribunals.

139. Discussions then focused on a number of ILO Conventions which were relevant to HIV/AIDS. Among these were Convention No. 111 on Equality of Opportunity and Non-Discrimination in Employment and Occupation; Convention 158 on Termination of Employment; Convention No. 159 on Disability; Convention Nos. 155 and 161 on OSH in particular regarding protective clothing and equipment and the right to be transferred to another job; Conventions Nos. 138 and 182 on Child Labour; Conventions Nos. 102 and 121 on social security instruments; Convention No. 175 on part time work; the Nursing Convention No. 149; and the Maritime Convention that required HIV/AIDS information to be provided to seafarers.

140. One participant noted that the Caribbean Tripartite Council had implemented a programme to address HIV/AIDS at the workplace. Also, at the national level many CARICOM countries had adopted workplace policies based on the ILO Code. In all negotiations, the trade unions try to have non-discrimination and protective clauses included in CBAs. The participants recognized the need for stronger tripartite arrangements to address HIV/AIDS and world of work issues.

XV. Plans of Action

141. National participants then presented their plan of action based on the reviews and discussions on their labour legislation.

St. Vincent and the Grenadines

- Widen scope of application of Protection of Termination Act to include a new section to address HIV and disability within 3 months.
- Tripartite consultation on policy on HIV in the workplace within 3 months.
- Ratify ILO Convention No. 144 within 12 months.
- Develop a national occupational safety and health policy and enact legislation based on the CARICOM Model within 18 months.
- Implement new Labour Relations Act based on CARICOM Model within 15 months.

**Antigua and Barbuda**
- Engage social partners in a comprehensive review of the OSH section of the Labour Code as a matter of highest priority within 6 months.
- Include a provision on HIV/AIDS in the Labour Code within 8 months with provision on constructive dismissal for persons with HIV and disability.
- As a third priority, amend the Labour Code to ensure that it binds the State and add a provision on sexual harassment.
- Amend within 8 months the provision in the Labour Code on equal remuneration for equal work to include equal remuneration across all sectors of the economy.
- Amend within 8 months provision in the Labour Code on recognition of trade union and employers’ federation to comply with the CARICOM Model Law.

**St. Kitts and Nevis**
- Set up a Council to examine the model legislation on OSH and ILO Conventions and to develop a policy and amend existing legislation.
- Establish a tripartite committee to examine the model legislation on Termination of Employment within 6 months.
- Review by a tripartite body the Trade Union Act and Labour Act and include in a revised Act the requirement to notify the recognized trade union in the event of redundancy.
- Draft legislation on equal opportunity within 6 months.
- Draft sexual harassment act after further tripartite consultations and assistance from ILO.
- Set up a Council to recommend policy and law on HIV/AIDS, child labour, forced labour and migrant worker.

**Saint Lucia**
- Review provisions on termination of employment.
- Incorporate principles of natural justice in provisions on Recognition of Trade Union and Employers Organization within 6 months.
- Amend provision on redundancy to ensure that acceptance of severance pay rebuts the presumption of continuity.
- Grant recognition of trade unions for 40% of bargaining agent.
- Amend Occupational Safety and Health legislation to ensure obligations of employers to general public.
- Engage national tripartite consultation to address problems of HIV/AIDS in the workplace.
- Enact legislation on sexual harassment and gender in the workplace within 6 months.

**Dominica**
- First priority is to include within 5 months a provision on protection against sexual harassment equality of opportunity in employment and in particular sexual harassment in the Protection of Employment Act.
• Amend within 5 months Protection of Employment Act to prohibit the dismissal on grounds of HIV.
• Review laws on OSH and working environment.

**Grenada**
• First priority is to update legislation on OSH and ratify Convention No. 155 within one year.
• Second priority is to have within one year a tripartite review of the ILO Code of Practice on HIV/AIDS and the world or work and establish policies and guidelines for the workplace. In addition, have consultations and education in workplace and community.
• Third priority is to address within 6 months the minimum age for light work, and incorporate in the Labour Code provisions relating to trafficking in persons and migrant workers.
• Fourth priority is to upgrade the Termination of Employment Act to make Grenada fully compliant with the CARICOM Model and to ratify ILO Convention No.C158 within 6 months.
• Fifth priority is to enact legislation on sexual harassment.

XVI. Evaluation of the workshop

142. Participants were asked to complete an evaluation form, in particular listing the lessons learnt from the workshop and their specific suggestions for follow-up. Regarding the overall usefulness of the workshop, on a scale of 1 (very useful) to 3 (not useful at all), 100% of answers described the activity as very useful with some adding that it was “excellent”. Regarding the length of the workshop and of the various modules, one third expressed the opinion that one extra day would have been useful. The least useful modules concerned the opening, the CARICOM presentation on the social floor and the forced labour-child labour modules, possibly because there were no CARICOM Model text on which to base comparisons.

143. Suggestions for the future workshops included: preparing and disseminating in advance an Executive Summary of the ILO “Comparative Study”, sending the CARICOM texts themselves by email in advance, holding a specific workshop on sexual harassment, and another on the workplace and employment rights and implications of HIV/AIDS, and providing direct technical advice for implementing the six Plans of Action, so that the momentum of the “excellent” workshop would not be lost.
Annexes
### Agenda

**ILO TRIPARTITE CAPACITY-BUILDING WORKSHOP ON LABOUR LEGISLATION**  
22-25 May 2007  
Coco Palm Hotel,  
Rodney Bay Village, Saint Lucia

#### Tuesday 22 May 2007

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:00 – 10:00</td>
<td>Opening session</td>
</tr>
<tr>
<td>10:00 -10:30</td>
<td>Coffee break</td>
</tr>
<tr>
<td>10:30 – 11:15</td>
<td>Discussion on background of CARICOM model law laws and process</td>
</tr>
<tr>
<td>11:15 – 12:15</td>
<td>Session 1 - Compliance with CARICOM Model Labour Law and ILO Conventions</td>
</tr>
<tr>
<td></td>
<td>on Termination of Employment and Initial Recommendations</td>
</tr>
<tr>
<td>12:15 – 13:00</td>
<td>Discussion and group work on initial recommendations</td>
</tr>
<tr>
<td>13:00 – 14:00</td>
<td>Lunch</td>
</tr>
<tr>
<td>14:00 - 15:15</td>
<td>Session 2 - Compliance with CARICOM Model Labour Law and ILO Conventions</td>
</tr>
<tr>
<td></td>
<td>on Registration, Status and Recognition of Trade Unions and Employers'</td>
</tr>
<tr>
<td></td>
<td>Organizations</td>
</tr>
<tr>
<td>15:15 – 16:00</td>
<td>Discussion and group work on initial recommendations</td>
</tr>
<tr>
<td>16:00 - 16:15</td>
<td>Coffee break</td>
</tr>
<tr>
<td>16:15 – 17:00</td>
<td>Session 3 - Compliance with CARICOM Model Labour Law and ILO Conventions</td>
</tr>
<tr>
<td></td>
<td>on Equality of Opportunity and Treatment in Employment and Occupation</td>
</tr>
<tr>
<td>17:00 – 17:30</td>
<td>Discussion and group work on initial recommendations</td>
</tr>
</tbody>
</table>

#### Wednesday 23 May 2007

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:15 – 9:15</td>
<td>Session 4 - Compliance with CARICOM Model Labour Law and ILO Conventions</td>
</tr>
<tr>
<td></td>
<td>on Occupational Safety and Health</td>
</tr>
<tr>
<td>9:15 – 9:45</td>
<td>Discussion on background of CARICOM model law laws and process</td>
</tr>
<tr>
<td>9:45 -10:15</td>
<td>Session 5 - Establishment of CARICOM Social Floor</td>
</tr>
<tr>
<td>10:15 – 10:45</td>
<td>Coffee break</td>
</tr>
<tr>
<td>10:45 – 11:30</td>
<td>Session 6 - Participatory Law Making</td>
</tr>
<tr>
<td></td>
<td>Introduction, Legislative Plan and Drafting Techniques</td>
</tr>
<tr>
<td>11:30 - 12:00</td>
<td>Exercise 1: Examples of consultations</td>
</tr>
<tr>
<td>12:00 – 12:45</td>
<td>Session 7 - Freedom of Association, Collective Bargaining and the Right</td>
</tr>
<tr>
<td></td>
<td>to Strike</td>
</tr>
<tr>
<td>12:45 – 13:30</td>
<td>Exercise 2 - Choosing between 2 collective bargaining texts</td>
</tr>
<tr>
<td>13:30 – 14:30</td>
<td>Lunch</td>
</tr>
<tr>
<td>14:30 – 15:45</td>
<td>Session 8 - The Employment Relationship</td>
</tr>
<tr>
<td></td>
<td>ILO Conventions 158 &amp; Recommendation 198</td>
</tr>
<tr>
<td>15:45 – 16:00</td>
<td>Coffee break</td>
</tr>
<tr>
<td>16:00 – 17:00</td>
<td>Exercise 3 - Analysis of South Africa Code on Who is an Employee</td>
</tr>
</tbody>
</table>
### Thursday 24 May 2007

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:00 – 10:15</td>
<td>Session 9 - Tripartite Consultation &amp; the Role of Tripartite Institutions in Labour Law reform:</td>
</tr>
<tr>
<td>10:15 – 10:45</td>
<td>Exercise 4 - Frequently Asked Questions/Group work</td>
</tr>
<tr>
<td>10:45 – 11:15</td>
<td>Coffee break</td>
</tr>
<tr>
<td>11:15 – 12:15</td>
<td>Session 10 - Discrimination and Gender Issues:</td>
</tr>
<tr>
<td>12:15 – 12:45</td>
<td>Exercise 5 - Changes to a draft law on equality and missing definitions</td>
</tr>
<tr>
<td>12:45 – 14:00</td>
<td>Lunch</td>
</tr>
<tr>
<td>14:00 – 15:00</td>
<td>Session 11 - Forced Labour:</td>
</tr>
<tr>
<td>15:00 – 16:15</td>
<td>Exercise 6 - Drafting a general legislative ban on compulsory labour and coffee break</td>
</tr>
<tr>
<td>16:15 – 17:00</td>
<td>Session 12 - Child Labour:</td>
</tr>
</tbody>
</table>

### Friday 24 May 2007

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:30 – 9:15</td>
<td>Are Model Labour Laws useful in the context of the OECS and CARICOM?</td>
</tr>
<tr>
<td>9:15 – 10:00</td>
<td>Session 13 - ILO Promotional Framework for Occupational Safety and Health (ILO Convention No 187) and the ILO Code of Practice on HIV/AIDS &amp; Guidelines</td>
</tr>
<tr>
<td>10:00 – 10:30</td>
<td>Exercise 8 - Transposing an HIV policy into law in a holistic approach</td>
</tr>
<tr>
<td>10:30 – 11:00</td>
<td>Coffee break</td>
</tr>
<tr>
<td>11:00 – 11:30</td>
<td>Exercise 8 - continued</td>
</tr>
<tr>
<td>11:30 – 12:00</td>
<td>Updating priority matrix for plan of action</td>
</tr>
<tr>
<td>12:00 – 13:00</td>
<td>Lunch</td>
</tr>
<tr>
<td>13:00 – 13:30</td>
<td>Updating priorities</td>
</tr>
<tr>
<td>14:00 – 14:45</td>
<td>Presenting plan of action</td>
</tr>
<tr>
<td>14:45 – 15:30</td>
<td>Evaluation, presentation of certificates, and wrap up</td>
</tr>
</tbody>
</table>
**ANNEX 2**

### PARTICIPANTS LIST

<table>
<thead>
<tr>
<th>NAME</th>
<th>POSITION</th>
<th>ORGANIZATION</th>
<th>COUNTRY</th>
<th>ADDRESS</th>
<th>TELEPHONE</th>
<th>FAX</th>
<th>EMAIL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Government</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mrs. Zane Sharon Peters</td>
<td>Labour Commissioner (Acting)</td>
<td>Ministry of Labour, Public Administration and Empowerment</td>
<td>Antigua and Barbuda</td>
<td>Building No.1, Government Office Complex, Queen Elizabeth Highway, P.O.Box 767, St. John's</td>
<td>(268) 462 4988</td>
<td>(268) 462 4988</td>
<td><a href="mailto:deplabour@antigua.gov.ag">deplabour@antigua.gov.ag</a></td>
</tr>
<tr>
<td>Mr. Arthur Smith</td>
<td>Labour Commissioner</td>
<td>Ministry of Foreign Affairs, Trade and Labour</td>
<td>Dominica</td>
<td>Fourth Floor, Financial Centre, Kennedy Avenue, Roseau</td>
<td>(767) 266 3318/448 6932</td>
<td>(767) 448 5200</td>
<td><a href="mailto:foreigntrade@cwdom.dm">foreigntrade@cwdom.dm</a></td>
</tr>
<tr>
<td>Mr. Anslem De Bourg</td>
<td>Labour Consultant</td>
<td>Ministry of Education and Labour</td>
<td>Grenada</td>
<td>Ministerial Complex, Botanical Gardens, St. George's</td>
<td>(473) 440 2532</td>
<td>(473) 440 4923</td>
<td></td>
</tr>
<tr>
<td>Ms. Karen Hughes</td>
<td>Parliamentary Counsel</td>
<td>Ministry of the Attorney General, Justice and Legal Affairs</td>
<td>St. Kitts and Nevis</td>
<td>Government Headquarters, P.O.Box 164, Church Street, Basseterre</td>
<td>(869) 467 1186</td>
<td>(869) 465 5040</td>
<td><a href="mailto:blestkay@yahoo.com">blestkay@yahoo.com</a></td>
</tr>
<tr>
<td>Mr. Ray Narcisse</td>
<td>Labour Officer</td>
<td>Ministry of Health and Labour Relations</td>
<td>Saint Lucia</td>
<td>Sir Stanisclaus James Administrative Building, Waterfront, Castries</td>
<td>(758) 468 3177</td>
<td>(758) 451 8735</td>
<td><a href="mailto:narcisse_ar@yahoo.com">narcisse_ar@yahoo.com</a></td>
</tr>
<tr>
<td>Ms. Cornelia Jn. Baptiste</td>
<td>Labour Officer</td>
<td>Ministry of Health and Labour Relations</td>
<td>Saint Lucia</td>
<td>Sir Stanisclaus James Administrative Building, Waterfront, Castries</td>
<td>(758) 468 3173</td>
<td>(758) 451 8735</td>
<td><a href="mailto:cornybaptiste@yahoo.com">cornybaptiste@yahoo.com</a></td>
</tr>
<tr>
<td>Ms. Bernadine Dublin</td>
<td>Deputy Labour Commissioner (Ag)</td>
<td>Labour Department, Ministry of Urban Development, Labour, Culture and Electoral Matters</td>
<td>St. Vincent and the Grenadines</td>
<td>Marion House Building, Murray's Road, Kingstown</td>
<td>(784) 457 1789/450 0337</td>
<td>(784) 485 6737</td>
<td>labourdpt@vincysurf/ <a href="mailto:john_dublin@hotmail.com">john_dublin@hotmail.com</a></td>
</tr>
<tr>
<td>NAME</td>
<td>POSITION</td>
<td>ORGANIZATION</td>
<td>COUNTRY</td>
<td>ADDRESS</td>
<td>TELEPHONE</td>
<td>FAX</td>
<td>EMAIL</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----------------------</td>
<td>---------------------------------------</td>
<td>---------------</td>
<td>--------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td><strong>Employers’ Organizations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mr. Henderson Bass</td>
<td>Executive Secretary</td>
<td>Antigua and Barbuda Employers’ Federation</td>
<td>Antigua and Barbuda</td>
<td>High Street, P.O.Box 298, St. John’s</td>
<td>(268) 462 0449</td>
<td>(268) 462 0449</td>
<td><a href="mailto:aempfed@candw.ag">aempfed@candw.ag</a></td>
</tr>
<tr>
<td>Mr. Cyril Dalrymple</td>
<td>Executive Director</td>
<td>Dominica Employers’ Federation</td>
<td>Dominica</td>
<td>14 Church Street, P.O.Box 1783, Roseau</td>
<td>(767) 448 2314</td>
<td>(767) 448 4474</td>
<td><a href="mailto:def@cwdom.dn">def@cwdom.dn</a></td>
</tr>
<tr>
<td>Mr. Cecil Edwards</td>
<td>Executive Director</td>
<td>Grenada Employers’ Federation</td>
<td>Grenada</td>
<td>Building #11, P.O.Box 129, Frequente Industrial Park, Grand Anse</td>
<td>(473) 440 6963</td>
<td>(473) 440 6627</td>
<td><a href="mailto:gef@spiceisle.com">gef@spiceisle.com</a></td>
</tr>
<tr>
<td>Mr. Emile Ferdinand</td>
<td>Legal Advisor</td>
<td>St.Kitts and Nevis Chamber of Industry and Commerce</td>
<td>St. Kitts and Nevis</td>
<td>c/o Kelsick, Wilkin and Ferdinand Chambers, #C21 The Sands Complex, Bay Road, Basseterre</td>
<td>(869) 465 2440</td>
<td>(869) 465 7808</td>
<td><a href="mailto:jef@kwfonline.com">jef@kwfonline.com</a></td>
</tr>
<tr>
<td>Ms. Kisha Hunte</td>
<td>Executive Board Member</td>
<td>Saint Lucia Employers’ Federation</td>
<td>Saint Lucia</td>
<td>c/o The Morgan Building, L’Anse Road, P.O.Box 160, Castries</td>
<td>(758) 452 2190</td>
<td>(758) 452 7335</td>
<td><a href="mailto:slef@candw.lc">slef@candw.lc</a></td>
</tr>
<tr>
<td>Mr. Joseph C. Du Bois</td>
<td>Executive Board Member</td>
<td>Saint Lucia Employers’ Federation</td>
<td>Saint Lucia</td>
<td>c/o The Morgan Building, L’Anse Road, P.O.Box 160, Castries</td>
<td>(758) 456 8512</td>
<td>(758) 456 8520</td>
<td><a href="mailto:gm@palmhavenhotel.com">gm@palmhavenhotel.com</a></td>
</tr>
<tr>
<td>Mr. Gerald Crick</td>
<td>Executive Director</td>
<td>St. Vincent Employers’ Federation</td>
<td>St. Vincent and the Grenadines</td>
<td>3rd Floor, Corea’s Building, Halifax, P.O.Box 348, Kingstown</td>
<td>(784) 456 1209</td>
<td>(784) 457 2033</td>
<td><a href="mailto:svef@caribsurf.com">svef@caribsurf.com</a></td>
</tr>
<tr>
<td><strong>Workers’ Organizations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mrs. Elias Leah Shillingford</td>
<td>General Secretary (Ag)</td>
<td>Dominica Amalgamated Workers’ Union (DAWU)</td>
<td>Dominica</td>
<td>43 Hillsborough Street, P.O.Box 137, Roseau</td>
<td>(767) 448 2343</td>
<td>(767) 448 0086</td>
<td><a href="mailto:wawuunion@hotmail.com">wawuunion@hotmail.com</a></td>
</tr>
<tr>
<td>Mr. Bert Patterson</td>
<td>General Secretary</td>
<td>Technical and Allied Workers’ Union (TAWU)</td>
<td>Grenada</td>
<td>Green Street, P.O.Box 405, St. George’s</td>
<td>(473) 440 2231</td>
<td>(473) 440 5878</td>
<td><a href="mailto:gtawu@caribsurf.com">gtawu@caribsurf.com</a></td>
</tr>
<tr>
<td>Mr. Batumba Tak</td>
<td>General Secretary</td>
<td>St. Kitts-Nevis Trades and Labour Union (TLU)</td>
<td>St. Kitts and Nevis</td>
<td>&quot;Masses House&quot;, Church Street, P.O.Box 239, Basseterre</td>
<td>(869) 465 2229/2891</td>
<td>(869) 466 9866</td>
<td><a href="mailto:skunion@caribsurf.com">skunion@caribsurf.com</a></td>
</tr>
</tbody>
</table>
### NAME | POSITION | ORGANIZATION | COUNTRY | ADDRESS | TELEPHONE | FAX | EMAIL
--- | --- | --- | --- | --- | --- | --- | ---
Mr. Lawrence Poyotte | Research and Grievance Officer | National Workers' Union (NWU) | Saint Lucia | Cor. Micoud Street and Chaussee Road, P.O.Box 713, Castries | (758) 452 3664/459 0181 | (758) 453 2896 | lawrencepoyotte@gmail.com
Mr. Lloyd Small | General Secretary | Commercial Technical and Allied Workers Union (CTAWU) | St. Vincent and the Grenadines | Union House, Lower Middle Street, P.O.Box 245, Kingstown | (784) 456 1525 | (784) 457 1676 | ctawu@vincysurf.com

**Observers**

Dr. Steven MacAndrew | Specialist, Movement of Skills / Labour | CARICOM Single Market and Economy Unit (CSME) | Barbados | 6th Floor, Tom Adams Financial Centre, Church Village, Bridgetown | (246) 429 6064 | (246) 437 2689 | stevenm@csme.com.bb

Mr. Sean Curtis Mathurin | Economic Affairs Officer | Organization of Eastern Caribbean States Secretariat | Saint Lucia | P.O.Box 179, Morne Fortune, Castries | (758) 455 6346 | (758) 453 1628 | smathurin@oecs.org

Ms. Esther St. Marie | Mobilizer/Organizer | St. Lucia Seamen & Waterfront & General Workers Trade Union | Saint Lucia | L'Anse Road, P.O.Box 166, Castries | (758) 452 1931 | (758) 452 5452 | seamen@candw.lc

Mr. Alexis Alcide | President | St. Lucia Seamen and Waterfront and General Workers Trade Union | Saint Lucia | L'Anse Road, P.O.Box 166, Castries | (758) 452 1931 | (758) 452 5452 | seamen@candw.lc

**ILO Officials/Facilitators**

Ms. Jane Hodges | Senior Labour Law Specialist | ILO, Dialogue Department | Switzerland | 4, route des Morillons CH-1211 Geneva 22 | (41.22) 799 7147 | 41 22 799 8749 | hodges@ilo.org

Mr. Clive Pegus (Facilitator) | Attorney-at-Law/Consultant | Ideas to Business Limited | Trinidad and Tobago | Suite #2, 21 Eight Street, Barataria | (868) 674 3875/3207 | (868) 674 1683 | cempegus@yahoo.com

Ms. Mary Read | Deputy Director | ILO Subregional Office for the Caribbean | Trinidad and Tobago | #6 Stanmore Avenue, Port of Spain | (868) 623 7178 | (868) 627 8978 | read@ilocarib.org.tt

Ms. Luesette Howell | Senior Specialists on Employers' Activities | ILO Subregional Office for the Caribbean | Trinidad and Tobago | #6 Stanmore Avenue, Port of Spain | (868) 623 7178 | (868) 627 8978 | howell@ilocarib.org.tt

Ms. Liz Mazelie | Administrative/Finance Assistant | ILO Subregional Office for the Caribbean | Trinidad and Tobago | #6 Stanmore Avenue, Port of Spain | (868) 623 7178 | (868) 627 8978 | mazeliel@ilocarib.org.tt
Are ModelLabour Laws Useful in the Context of the OECS and CARICOM?
Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis of CARICOM Model Labour Laws

The following strengths were identified concerning the CARICOM Model Labour Laws:
- they provided the region with a platform on which to build and to level the playing field;
- they provided a basis for the enhancement of knowledge of labour law in the other countries of the region;
- they sensitized the legislators about important labour laws that should be enforced;
- they facilitated the social dialogue process;
- they were an aid to the social partners and other stakeholders in drafting labour laws;
- they highlighted the importance of international labour standards in drafting labour laws;
- they provided an opportunity to ensure compliance with international labour standards;
- they laid a foundation for the integration of labour markets;
- they assisted the discussion and consultation on labour market issues; and
- they stimulated training programmes in important areas of labour administration and labour issues.

The following weaknesses were identified:
- the texts could have been more succinct and easier for the lay person to read;
- the texts did not take into consideration differences in cultural and national circumstances and differences, for example in the recognition of trade unions;
- there was insufficient tripartite consultation at the national level;
- there was no monitoring or reporting mechanism in the texts on implementation of the Model Legislation; and
- there had been no further development/adjustments made to the model laws since their adoption over a decade ago.

The participants identified the following opportunities with the CARICOM Model Labour Laws:
- Models provided an opportunity to examine and review local, regional and international standards;
- they provided an opportunity to review and update legislation;
- they gave the region the opportunity for regional and national dialogue;
- they facilitated greater cohesion in the labour laws of the region;
- they facilitated the process for easy/free movement of persons and businesses without differences in labour market/standards;
- they presented an excellent opportunity for pooling of resources and expertise in the area of labour law;
- they provided an opportunity for consideration of further model legislation in other areas (conciliation and arbitration; migrant workers; HIV in the workplace; seafarers suggested);
- they provided an opportunity to learn of different systems in different countries such as the Severance Fund in Saint Kitts and Nevis;
they provided a guide to draftspersons in legislation.

The participants identified the following threats:
- if there was no review mechanism, the model laws could lose their usefulness;
- there was no cost/benefit analysis of the implementation of model laws and therefore it was not known whether the cost of implementation to employers might be too prohibitive;
- no sensitivity analysis was done on the likely impact on investment and job creation/loss arising out of the implementation of the model laws; and
- the political implications of implementation of the model laws should have been taken into consideration.