

Trade Unions & **Child Labour**

Booklet 5

**Collective Bargaining
to Combat Child Labour**

*Developing National and International Trade Union Strategies to Combat Child Labour
Project INT/96/M06/NOR*

*Bureau for Workers' Activities
INTERNATIONAL LABOUR OFFICE*

This booklet is one of seven booklets in the series “Trade Unions and Child Labour”. The booklets were produced in the year 2000 as part of the ILO/ACTRAV project, Developing National and International Trade Union Strategies to Combat Child Labour (INT/96/M06/NOR), sponsored by the Government of Norway.

The series of booklets comprises:

- 1** Guide to the Booklets
- 2** Union Policies and Action Plans to Combat Child Labour
- 3** Fact Finding and Information about Child Labour
- 4** Campaigning Against Child Labour
- 5** Collective Bargaining to Combat Child Labour
- 6** Using ILO Standards to Combat Child Labour
- 7** The Tripartite Structure to Combat Child Labour

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Preface

The ILO Bureau for Workers' Activities (ACTRAV), has been involved in issues concerning environmentally sustainable development and child labour for many years - through supporting trade unionists to develop and to implement their own policies and action plans.

Child labour is a vast and complex area, and many different groups are engaged in the elimination of child labour and therefore a large number of publications have been produced on this subject.

So, why do we need more?

Just as with the question of environmentally sustainable development, trade unions have asked for materials dealing with the issue of child labour *from the specific point of view of workers and their organizations.*

This series of booklets is designed as an introductory "one stop" guide for trade union activists who have decided that they want to get involved in child labour and want information to get them on the track.

You, the reader, may be involved in trade union work at many levels: at a national centre; in a national trade union; in the regional or local structure of a national centre or national union; or as an activist in an enterprise or a public service such as a school or hospital.

It does not matter which level you work at, or what position you hold, whether you are a full time paid staff member of a trade union or a voluntary activist like a shop steward or a branch secretary. At any level, in any trade union position, you can make a contribution to the fight against child labour. The struggle is worthwhile. It is a struggle for basic human rights - the rights of the child to education and childhood. It is a trade union issue because it is a question of adult employment.

You can use the materials as working papers. Often, you will think of things that you need to do. Record these points and then take the appropriate action.

Above all, the materials are tools to be used.

There are checklists, action points, quotations, case studies, and different references throughout the booklets.

The booklets were produced through a collective process by trade unionists themselves. Draft booklets were prepared and were then sent out for comments to many trade union organizations and tested in several workshops in Africa and Asia. They were then revised in the light of feedback from previous activities, at a workshop in Geneva. Further revision and editing took place before it was finally printed for publishing.

Geneva, 2000



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Photo ILO/ACTRAV/Child Labour Project



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Collective Bargaining, Trade Unions and Child Labour

1

Collective bargaining is a traditional tool of the trade union movement, and the unique way that trade unions have of relating to employers. In this respect, no other organization or group can substitute for the trade union. Normally, governments are not directly involved in collective bargaining except when the government is the employer. In some national systems, governments have a role to play where collective agreements have to be approved by or registered with the authorities. Otherwise, government's main role is to provide the legal framework in which collective bargaining takes place. Ideally this framework should be based on the standards laid down in ILO Convention number 98 on the Right to Organise and Collective Bargaining, 1949.

Collective bargaining has served the trade union movement well in improving wages and working conditions. It has proven effective in influencing what occurs in the workplace. Hence, collective bargaining must be seen as one of the main trade union strategies to combat child labour.

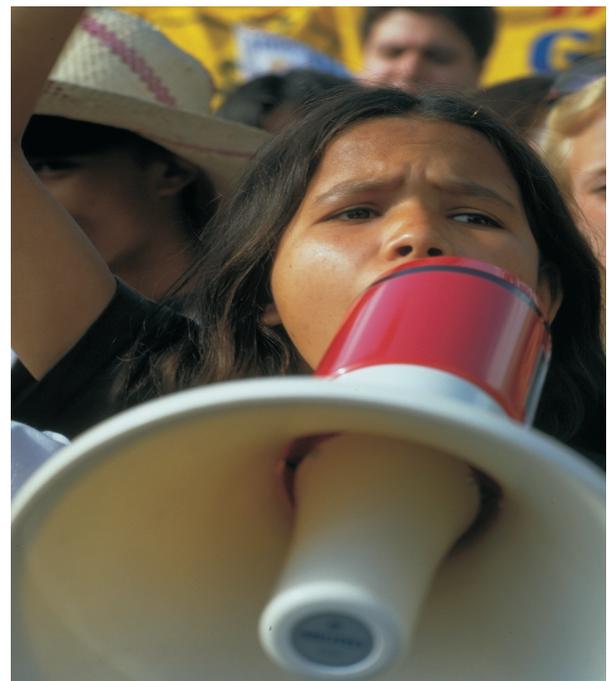
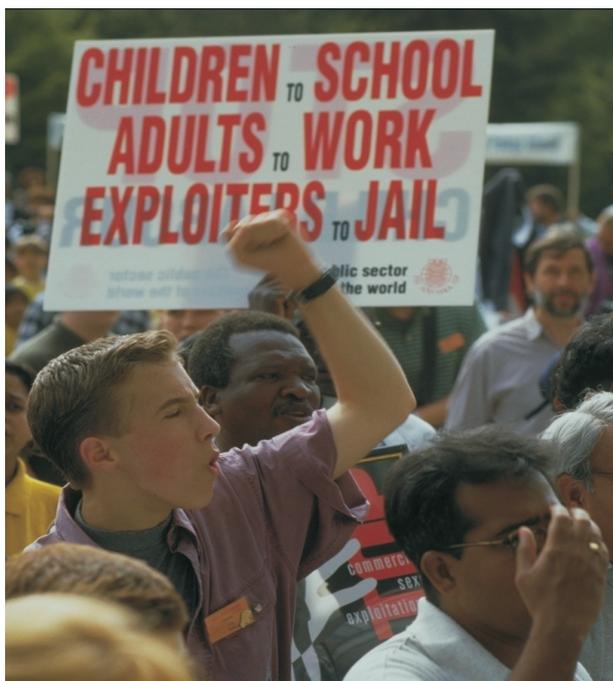


Photo: Julia Dean/JD&A

New developments in collective bargaining

Unions have always tried to expand the scope of collective bargaining. Thus, unions will raise issues beyond pay and hours of work and attempt to “broaden the agenda” to include questions of safety and health, pensions, redundancy or even cooperation in the running of the enterprise. Collective bargaining can take place at a number of levels within a country.

Globalization has created a situation where multinational companies exert enormous power over both governments and markets. In some sectors, multinational companies now use very complex subcontracting arrangements to supply their products. In response, trade unions are now seeking negotiation at the international level.

Levels of Collective Bargaining

Level	Union side	↔	Employer's side
International	International Trade Secretariat	↔	Multinational company or employers' organization
National	National centre of trade unions	↔	National organization of employers
Industry	National industry union	↔	National industry organization of employers
Area (town/ province)	Area organization of union or national centre	↔	Area organization - e.g. Chamber of Commerce
Enterprise	Enterprise branch of national union or enterprise based union	↔	Employer

Codes of conduct

In recent years, public attention has focussed on the human rights and labour practices of multinational corporations operating in developing countries. Revelations of the use of child labour in the production of consumer goods have been particularly shocking. Although some of these situations have been exposed by the media, it has been human rights and workers' organizations that have denounced intolerable conditions in factories supplying brand-name companies. To respond to the negative image created by these revelations and the pressure exerted by these groups, many companies have adopted voluntary codes of conduct, that is, codes which are not negotiated, but decided unilaterally by the company.

These codes of conduct state the company's position on human rights issues such as child labour, forced labour, freedom of association and non-discrimination in the workplace. These codes have been criticized as simply a public relations exercise because codes are worthless if they are not put into practice.

There are cases of agreements, called "codes of conduct", that have been negotiated with organizations other than multinational corporations. An example is the **Code of Labour Practice for Production of Goods** licensed by Sydney Organising Committee for Olympic Games, signed with the Australian Council of Trade Unions (ACTU), which includes the commitment...

"There shall be no exploitation of child labour. Workers shall only be employed in accordance with relevant State and Federal legislation, in line with appropriate ILO standards..."

ICFTU and ITS model code

Model codes have been developed by trade unions, enterprise associations and others. The scope of these models is broader than voluntary codes developed by private sector enterprises and the models intended as a resource that companies may draw upon, or local trade unions can use in their negotiation with companies. The ICFTU and International Trade Secretariats have produced a basic model code. Those parts of the code which are relevant to child labour are reproduced here.

The ICFTU/ITS Basic Code of Labour Practice

(Name of company) and its contractors, their subcontractors, principal suppliers and licensees (franchise holders) involved in the production and/or distribution of products or services for *(name of company)* shall ensure that

CHILD LABOUR IS NOT USED

There shall be no use of child labour. Only workers above the age of 15 years or above the compulsory school-leaving age, whichever is higher, shall be engaged (ILO Convention 138). Adequate transitional economic assistance and appropriate educational opportunities shall be provided to any replaced workers.



Photo G. Palazzo

Photo E. Gianotti

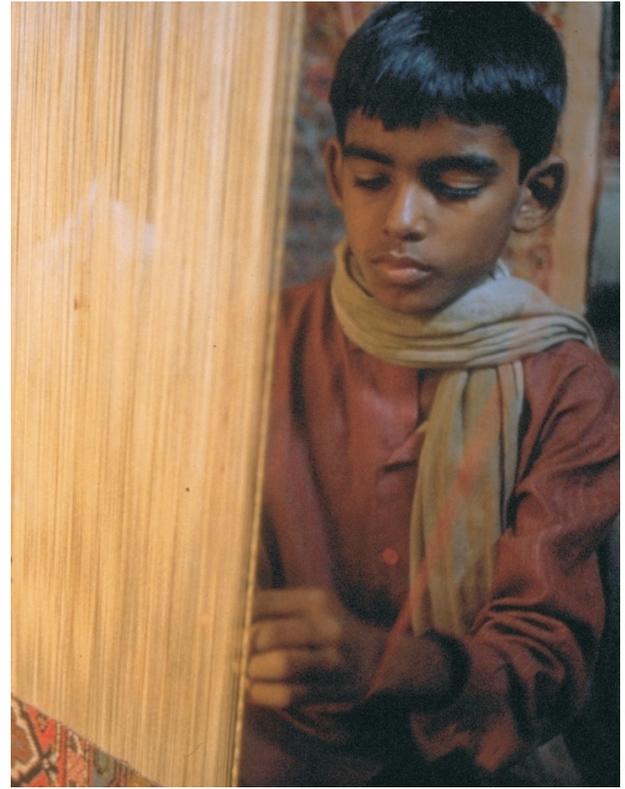


Photo Dorrigny & Rea

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This basic model code has been worked on further by some ITSs to create model codes which take into consideration the specific aspects of the industries where they operate. So where the basic code makes reference to the core conventions, an ITS model code would refer to other ILO standards concerning its sector. For example, reference to conventions related to specific hazards such as asbestos would be important for construction workers but not for textile workers.

One way for public sector trade unions to make use of codes of conduct is to negotiate agreements with public employers to incorporate them into procurement contracts awarded to private sector companies. For example, in 1996 it was discovered by the Norwegian Confederation of Trade Unions (LO) that public hospitals in Norway were using surgical instruments manufactured in Pakistan, possibly with child labour. Following a campaign by LO Norway, the Oslo Municipal Executive Board agreed to include a clause on child labour in its procurement contracts. Several public hospitals in Norway have followed the Oslo decision, incorporating similar language into their individual supply contracts.

Handbook on Child Labour for Public Service Workers, PSI, 1997

Trade union concerns about codes

Trade unions have a number of concerns about codes. The most important are:

The content of codes

Most codes have not included the right for workers to organize. Nor have they been anchored in internationally recognized standards. This is why the trade union movement has been promoting negotiated codes and have advanced model codes including ILO standards.

Groups of workers are not covered

A study was made of several codes and found that none of the codes reviewed included specific coverage of home workers, of whom a large number are women and children. These workers were not taken into consideration in voluntary codes because they were not present at the formal workplace. However, the models advanced by trade unions attempt to cover these types of workers by ensuring that codes cover the workforce of subcontractors and suppliers of the multinationals.



Photo E. Gianotti

Monitoring and enforcement of codes

For some companies, the codes are “window dressing” - designed to ease the pressure of public opinion after an embarrassing exposure of worker exploitation. But whether a code is voluntary or negotiated, pressure groups are interested in it being put into practice. So the most difficult questions arise after a code is drawn up: how can the code be implemented? How can implementation of the code be monitored? And how can compliance be verified? For the code to be an effective solution to the problem, there must be a system established for monitoring. This monitoring system may take the form of internal monitoring (the company monitors itself), external monitoring (an external agent monitors the company) or a combination of both methods. Trade unions involved in this debate call for independent monitoring which means that monitoring will not depend solely on the information provided by the enterprise being audited, but would gather information from other informed sources, for example the local community and workers' organizations.

However, there are few, if any, truly independent and competent organizations able to verify codes. Companies have shown themselves reluctant to develop independent monitoring, or auditing as it is also known.

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Child labour cited on McDonald's toys

Snoopy, Winnie the Pooh, and Hello Kitty toys sold with McDonald's meals in Hong Kong are made at a mainland Chinese sweatshop that illegally employs child laborers to package the toys, a newspaper reported yesterday. The children, as young as 14, work 16-hour days for about \$3, barely the cost of a McDonald's meal in Hong Kong, the Sunday Morning Post reported. The newspaper said one of its reporters mingled with some of the youngsters in a guarded factory complex where they live in spartan conditions. It said 16 workers sleep in a single room on wooden beds with no mattresses. The newspaper quoted some of the youngsters saying they lied about their age and used false identification documents to obtain jobs. The newspaper quoted McDonald's as saying the company has a strict code on labor rights that prohibits child labor and that it carries out periodic audits. McDonald's said it had not reason to believe its Hong Kong toy supplier was in violation of its standards, the Post reported.

(AP) 8/28/2000

As this news item illustrates, McDonald's has a code, but it does not have an effective monitoring and verification system to ensure that the code is respected. This area of concern represents the area of greatest contention because monitoring and verification will involve costs. Hence, negotiating codes means that if the enterprise is to act in good faith, it must be prepared to spend on staff and systems to carry out the monitoring exercise as well as on independent auditors capable of verifying its compliance with the code.

Framework agreements

In response to this development of voluntary codes and the increasing informalization of the labour market, the trade union movement has advocated negotiated codes. One strategy, adopted by international trade secretariats, is the negotiation of “*framework agreements*” between the concerned ITS and a multinational company or international employers' organization.

The IUF, an international trade secretariat (ITS), explains:

*“.. Framework agreements all share a common characteristic. **They do not seek to substitute in any way for local or national collective bargaining.** Local and national organising and bargaining must continue to be seen as the essential building blocks of our affiliates' strength...agreements are in essence about organising and bargaining for “**space**”.... best seen as international bargaining aimed at protecting and enlarging the space in which affiliates organise and bargain. In so many countries, in large part as a result of globalisation, we are witnessing efforts on the part of employers, often with the collusion of governments, to deny or shrink that space. Our international organising and bargaining activity must remain focussed at directly protecting that space.”*

The codes of labour practice and framework agreements advocated and developed by trade unions are based on the ILO core labour standards, which are the human rights standards. Almost all framework agreements make specific reference to child labour and a commitment by companies to eliminate it.

An example is the Agreement between IKEA, a Swedish based furniture company with branches in many countries, and the International Federation of Building and Wood Workers, IFBWW, which includes this clause:

“3. Child labour must not be used.

Child labour must not occur. Only workers aged 15 and over, or over the age of compulsory education if higher, may be employed (ILO Convention no. 138). Exceptions to this rule may only be made if national legislation provides otherwise.”

How framework agreements will work

Framework agreements are new instruments, and it is uncertain how the strategy will develop as it is operating in a dynamic situation. Nevertheless, framework agreements will only apply to those employers or employers’ organizations, who sign them. The international trade secretariat (ITS) involved will circulate details of the agreement to its affiliates with members working in the particular company or industry, and encourage them to make use of it by informing workers of the content of the agreement as well as use it in collective bargaining at local level. The framework agreement is not a substitute for bargaining at local or national level. It is an additional level of bargaining, which complements and supports bargaining at the other levels.

As the ICFTU points out, a framework agreement is an agreement negotiated between a multinational company and an ITS concerning the international activities of that company.

Framework agreements will not be a substitute for model agreements or other guidance by national centres.

Other International Initiatives

Collective bargaining, codes of conduct and framework agreements should not be confused with two other developments: the social clause and social labelling.

Social clause

The idea of the social clause is different from codes of conduct and collective agreements. The social clause would involve governments taking action through trade agreements.

During the last decade attempts have been made by parts of the trade union movement to establish a link between trade agreements and minimum labour standards. Advocates of the social clause want to make access to markets conditional on participating nations meeting certain minimum labour standards agreed beforehand. This would be done through inserting clauses that are concerned with 'social standards' - or labour standards - into international trade agreements.

These social standards would be based on the core conventions of the ILO and so the social clause would include child labour as one of the main issues. In principle, this would mean that countries which persistently breach the core standards would have the **social clause** of trade agreements invoked against them and lose access to markets.

This would be done through a procedure which would involve the World Trade Organization and the ILO.

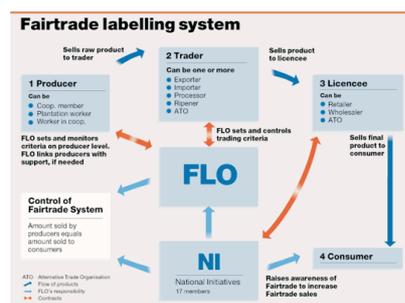
The ICFTU argues that:

in an increasingly competitive world market, governments should agree to a minimum floor level of labour standards so as to ensure that social conditions improve as Trade expands.

Source: ICFTU, *The Social Clause: Rationale and Operating Mechanisms* (1994)

The ICFTU and international trade secretariats tried very hard at the Seattle meeting of the World Trade Organization in December 1999 to have the Social Clause accepted for inclusion in the next round of world trade negotiations. However, not much progress has been made with this.

Social labelling



What is social labelling? Social labelling programmes have been established to promote social justice, workers' rights or environmentally sustainable development. Under these programmes, labels are established which provide information about the social conditions under which a product is made, or whether the production process respected environmentally sustainable development. This type of labelling then helps the consumer to discriminate in favour of these products.

Social labelling started in the food sector as a way to address the issue of international justice. These programmes ensure that a percentage of the price paid for the product will go directly to the producer and are now known as 'fair trade initiatives'. The first products included in these social labelling programmes were all produced by smallholders, so there were no unions in production. These programmes also developed their own 'alternative' shops, so there was no retail union in the consumer countries. However, when the fair trade organizations started to work with tea, some kind of union involvement was necessary as tea is produced on large estates.

The most important role of labelling programmes is the effect they have on the mainstream market. Once the labelled products account for a certain share of the market, the opinions of these consumer groups become important to major producers and retailers. In some cases, they have directly started producing or marketing fair trade products. Trade unions generally support the "fair trade" movement and social labelling as a tool in promoting fair trade, workers' rights and sustainable development.

Many labelling schemes have been set up, but again, there is no independent monitoring to back up the claims. One labelling programme, set up with the objective of eliminating

child labour from the carpet industry, has a vigorous monitoring component. This is the RUGMARK label which guarantees that the particular carpet was not woven by a child. Below is an outline of this monitoring system.



Photo Julia Dean/JD&A



Photo Dorigny & Rea

How RUGMARK Monitoring works

- ✓ Exporters give the RUGMARK Foundation (RMF) a list of their looms.
- ✓ Inspection begins on a random selection of the exporters looms. Once 35% of the looms have been inspected and no child labour has been found, the exporter is approved.
- ✓ Licensees with an order for RUGMARK carpets send a copy to the RMF with a list of selected looms.
- ✓ RMF issues the labels, each of which has a unique number indicating the exporter, type of carpet, and the loom. Thus, the label can be used to identify exactly where the carpet was produced.
- ✓ Inspection of looms continues until 100% have been checked. Random return inspections are also held.

To guard against corruption:

- ✓ Inspectors work in pairs, and the pairs are changed daily.
- ✓ Inspectors are unaware of their daily inspection sites until they receive their rota.
- ✓ Inspectors are also well paid.



Summary of possible initiatives to reduce child labour that do not involve collective bargaining

Type of initiative	How it works	Who is involved	Comments
Codes of Conduct	Companies promise not to use child labour (and follow other good labour practices) and oblige their suppliers to follow these standards through contracts.	Companies themselves and their suppliers.	Voluntary. Many companies have drawn up codes with no reference to any outside agency. Unions are usually not involved. Concerns about monitoring.
Social Labelling	Producers/retailers certify that products are made without child labour. Products are labelled so consumers can choose “child labour free”.	Producers and retailers, sometimes independent foundation, certify absence of child labour and issue label.	When carried out by genuinely independent agency, there can be confidence that product really is “child free”.
Fair Trade/ Alternative Trade	Retailer buys directly from producer; extra income goes to welfare of workers.	Retailer (mainly tea, coffee, chocolate and some handicraft products).	Currently small share of market, although growing.
Social Clause	A country may be denied access to markets if it is shown that it permits worst forms of child labour/other labour violations.	Will need governments to amend international trading agreements. Importing countries would need to make complaint to trigger action.	Strongly opposed by most developing countries and employers organizations. ICFTU strongly in favour.

All these initiatives would mainly apply to globally traded products, such as garments and food, produced for export. These account for approximately 5% of the world’s total child labour.

Negotiating on Child Labour Issues

To undertake collective bargaining about child labour should not present many difficulties for trade unions because it does not call for different methods of negotiation. But before taking a closer look at negotiating on areas directly related to the working child, let us first look at some more “traditional” areas. There are “traditional” demands which, if negotiated, would have a positive and long-term effect on child labour. Examples of such an approach may include the following strategies:

- ◆ by promoting a living wage, trade unions will reduce the dependence of poor families on income earned by their children;
- ◆ by bargaining to abolish the piece-rate or task system and replace it with an hourly or daily wage system, trade unions would remove the reason for needing the extra hands of children.



Photo J. Maillard

Let us now turn to collective bargaining which specifically deals with child labour. Unions first need to consider what is their objective of negotiating with the employer on child labour specific agreements.

The list of considerations which follows may assist you in your preparations:

- ◆ Do you want to negotiate a separate agreement on child labour? Or include the issue in a general agreement? It could be that, if your collective agreement normally lasts for a number of years, you may want to conclude a special agreement on child labour, rather than wait for the next opportunity to revise the general agreement.
- ◆ Do you want to negotiate with the employer to agree on joint policy statements? Or a public commitment to the elimination of child labour?
- ◆ Do you want to negotiate and agree on a joint plan of action with the employer? Do you want to negotiate direct support for children removed from work and their families?
- ◆ Remember, the standards in the collective agreement should be no worse than those in ILO Convention No. 138 or No. 182. If these have not been ratified, collective agreements should be at least as good as existing national law .
- ◆ National centres may want to consider the desirability of adopting a standard *Child Labour Clause*, which all affiliates are requested to try to negotiate. Or national unions could develop a model agreement which negotiating officers at local level, branches or units can use. How this is done will depend very much on national industrial relations practices and on your own union's policies.

What should be in an agreement on child labour issues

The child labour issues to be negotiated would depend on the level at which collective bargaining takes place and the nature of the employment situation. Some possibilities might include:

Direct employment Agreement that the enterprise would not employ any child below the minimum age set in national legislation, or the relevant ILO standard.



Photo J. Maillard

Agreement between Kakira Sugar Works and the National Union of Plantation and Agricultural Workers (NUPAW, Uganda):

“...Clause 22

a) No person under the age of 18 shall be employed by the company and employees shall not be allowed to bring their children who are under the same age to the estate to work their tasks.”

Indirect employment (i.e. suppliers, subcontractors)

Agreement that the enterprise would insert a clause in contracts with its suppliers or subcontractors that they would not use child labour. Remember, this type of agreement must include a monitoring system because the union would not necessarily have members in the suppliers and subcontractors who would be able to play a watchdog function.

The Code of Labour Practice agreed by the Sydney Olympic Games Organizing Committee and the Australian Council of Trade Unions, says:

“each licensee, and each contractor and sub-contractor engaged by the Licensee (the Organising Committee) shall compulsorily implement and respect the principles in the production and distribution of products bearing the (Sydney Olympic Games) logo.”

Monitoring - trade union involvement

The union should seek formal agreement about monitoring any clauses in an agreement concerning child labour. It has been difficult to get agreement on comprehensive solutions to the question of monitoring.

Employers to lobby within employers organizations

Employers may agree to press within an industry or the national employers' organization for strong policies against the use of child labour. In particular, employers can also call for ratification by government of Conventions No. 138 and No. 182.

“The General Council of International Organisation of Employers resolves this 3rd day of June 1996 to

Call on employers and their organisations to:

...Put an immediate end to slave-like, bonded and dangerous forms of child labour while developing formal policies with a view to its eventual elimination in all sectors.”

Sponsorship of schools

Trade unions could negotiate for the employer to support or provide schooling for workers' children, where children get roped into working and especially in cases where public schools are not available or accessible. In other situations, negotiation could be for the provision of non-formal education for former child workers.



Photo ILO/ACTRAV/Child Labour Project

Agreement between Uganda Tea Association and the National Union of Plantation and Agricultural Workers (NUPAW, Uganda):

“...Clause 10

Employers shall endeavour to provide facilities for Primary Education on the Tea estates to cater for employees' children's education.”

Rehabilitation



Photo ILO/ACTRAV/Child Labour Project

Agreement could be reached with employers to sponsor rehabilitation schemes for child labourers who have been taken out of work. Schemes could include ensuring the re-integration of the child into school or into vocational training or apprenticeship programmes. This agreement might also include creating employment for their parents or assisting the families through micro-credit schemes.



- 1** What traditional strategy do you think could be included in a collective agreement, which would reduce child labour in your industry or enterprise? Give reasons why you chose this approach.
- 2** What strategy related to working children could be included in a collective agreement in your industry or enterprise? Give your reasons and formulate an appropriate text for one of the issues you have listed.
- 3** Do you agree with the statement “that only a joint trade union-management committee can guarantee a workplace is *free of child labour*”? List other ways in which monitoring of agreements concerning child labour can be achieved?
- 4** After an agreement has been reached, who needs to know about the agreement and its content? Make a list and give the reasons why you have placed each group on your list.

