



EIGHTH ITEM ON THE AGENDA

Form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): The Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154) and the Collective Bargaining Recommendation, 1981 (No. 163)

Introduction

1. In accordance with the decision taken by the Governing Body at its 300th Session (November 2007), the Committee is requested to examine the appended form to be used as a basis for the reports on the abovementioned Conventions and Recommendations which member States will be required to submit in accordance with the recommendations made by the Committee. The report form¹ approved by the Governing Body will also be made available on the ILO web site, and member States will be encouraged to submit their replies in electronic format.
2. *The Committee is invited to decide on the report form for the Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154) and the Collective Bargaining Recommendation, 1981 (No. 163), and to submit this report form to the Governing Body for approval.*

Geneva, 29 January 2008.

Point for decision: Paragraph 2.

¹ The appendix contains the text of the report form, including the text of the Conventions and Recommendations referred to.

Appendix

Appl. 19, C. 151, C. 154, R. 159, R. 163
151. Labour Relations (Public Service) Convention, 1978
154. Collective Bargaining Convention, 1981
159. Labour Relations (Public Service) Recommendation, 1978
163. Collective Bargaining Recommendation, 1981

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organization)*

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (NO. 151)

LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (NO. 159)

COLLECTIVE BARGAINING CONVENTION, 1981 (NO. 154)

COLLECTIVE BARGAINING RECOMMENDATION, 1981 (NO. 163) ¹

Geneva

2008

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate

¹ The report concerns Convention No. 154 and Recommendation No. 163 only as far as they relate to collective bargaining in the public sector.

intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present form of report. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 30 April 2009, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the following instruments:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (No. 151)**LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (No. 159)**

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice:
- (a) Please indicate all categories of persons employed by the public authorities to whom the legislation, regulations, collective agreements or other measures which implement the provisions of the Convention and the Recommendation apply.
 - (b) Please indicate to what extent the guarantees provided for in this Convention and the Recommendation apply to high-level employees whose functions are normally considered as policy making or managerial or to employees whose duties are of a highly confidential nature, and to the armed forces and the police.
 - (c) Please indicate in particular any provisions of national legislation, regulations, collective agreements or other measures that provide for the protection of public employees against acts of anti-union discrimination in respect of their employment, and any provisions that provide for protective mechanisms and sanctions in this regard.
 - (d) Please describe to what extent and in what manner complete independence and adequate protection against acts of interference by a public authority in their establishment, functioning or administration is ensured to public employees' organizations. Please also indicate any protective mechanisms and sanctions set out in the legislation.
 - (e) Please indicate the categories of public employees, which enjoy the right to participate in the determination of their terms and conditions of employment.
 - (f) Please specify to what extent facilities are provided to representatives of recognized public employees' organizations with a view to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.
 - (g) Please indicate if, in your country, procedures for recognition of public employees' organizations apply with a view to determining the organizations to be granted the rights under the Convention and if so, indicate on which criteria the determination of such organizations is based.
 - (h) Please describe any procedures for the determination of terms and conditions of employment of public employees:
 - (i) Please indicate matters that are open to negotiation and matters that are excluded from negotiation.

- (ii) Also please indicate if there are particular duties the parties are supposed to respect during the negotiations.
 - (iii) In case of absence of collective bargaining mechanisms please specify whether other methods exist which allow public employees to participate in determining terms and conditions of employment.
 - (i) Please provide information on any measures in place to promote the development and use of mechanisms for negotiation between the public authorities and employees' organizations or other methods allowing public employees to participate in the determination of terms and conditions of employment. Please also provide statistical data about the number and the coverage of the collective agreements concluded in the public sector.
 - (j) Please describe any mechanisms created for the settlement of disputes arising in connection with the determination of terms and conditions of employment of public employees (negotiation or other procedures such as mediation, conciliation or arbitration) and indicate any judicial decision that has been rendered in this regard.
 - (k) Please indicate if organizations of workers which are not trade unions are allowed to participate in the negotiations and, in the affirmative, if these organizations of workers are allowed to do so even if there is a representative trade union.
 - (l) Please indicate also whether there are any restrictions of civil and political rights of public employees that are essential to the normal exercise of freedom of association.
 - (m) Are the rights of public employees covered by the same legislation as those of private sector workers, or are public employees covered by specific legislation? If so, please supply the text of this legislation.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please state, where appropriate, any difficulties due to the Convention, to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention.
- (d) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.
- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.
- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the

instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

- V. In case your country is a federal State:
- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
 - (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
 - (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

COLLECTIVE BARGAINING CONVENTION, 1981 (NO. 154)

COLLECTIVE BARGAINING RECOMMENDATION, 1981 (NO. 163)

In accordance with the decision taken by the Governing Body in November 2006, article 19 reports will be requested for Convention No. 154 and Recommendation No. 163 with regard to the public service only.

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice with regard to employees of the public service.
- (a) Please describe any ways in which the application of the Convention and of the Recommendation reflects special modalities for employees of all or part of the public service; please indicate also the provisions of the legislation applicable to the armed forces and the police.
 - (b) Please indicate to what extent the Convention and the Recommendation applied to bargaining with workers' representatives, as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971 (No. 135), and in what ways workers' representatives can participate in the determination of terms and conditions of employment.
 - (c) Please describe in what ways voluntary collective bargaining is promoted in the public service in the broad sense of the term.
 - (i) Please specify the matters covered by collective bargaining.
 - (ii) Please indicate the level at which collective bargaining in the public service takes place and, if applicable, give information as to whether there are mechanisms providing for coordination between the different levels of collective bargaining.

- (iii) Please indicate also if rules and procedures concerning collective bargaining in the public sector are agreed between workers' and employers' organizations.
 - (iv) Please indicate if, in your country, procedures for recognition of employers' and workers' organizations in the public service apply with a view to determining the organizations to be granted the right to collective bargaining and if so, indicate on which criteria the determination of such organizations is based.
 - (v) Please describe any training facilities available to negotiators of parties to collective bargaining and indicate if public authorities provide assistance to workers' and employers' organizations in this regard.
 - (vi) Please indicate also to what extent the collective bargaining parties have access to information about the overall economic situation of the country and the branch of activity within the public sector concerned by the negotiations.
 - (vii) Please supply statistical information on the number and the coverage of the collective agreements concluded.
 - (viii) Please describe the bodies and procedures for the settlement of labour disputes in the public service, both as regards disputes in the negotiation of agreements and disputes concerning the interpretation and application of agreements. Please also give statistical data of recourse to these bodies and procedures.
- (d) Please indicate if, in your country, there is prior consultation between public authorities and employers' and workers' organizations in the public sector on measures to encourage and promote collective bargaining, and if these measures are the subject of agreements between the public authorities and the employers' and workers' organizations.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please state, where appropriate, any difficulties due to the Convention to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention.
- (d) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.
- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.
- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the

instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

V. In case your country is a federal State:

- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
- (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
- (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

Convention No. 151

CONVENTION CONCERNING PROTECTION OF THE RIGHT TO ORGANISE AND PROCEDURES FOR DETERMINING CONDITIONS OF EMPLOYMENT IN THE PUBLIC SECTOR¹

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Noting the terms of the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Workers' Representatives Convention and Recommendation, 1971, and

Recalling that the Right to Organise and Collective Bargaining Convention, 1949, does not cover certain categories of public employees and that the Workers' Representatives Convention and Recommendation, 1971, apply to workers' representatives in the undertaking, and

Noting the considerable expansion of public-service activities in many countries and the need for sound labour relations between public authorities and public employees' organisations, and

Having regard to the great diversity of political, social and economic systems among member States and the differences in practice among them (e.g. as to the respective functions of central and local government, of federal, state and provincial authorities, and of state-owned undertakings and various types of autonomous or semi-autonomous public bodies, as well as to the nature of employment relationships), and

Taking into account the particular problems arising as to the scope of, and definitions for the purpose of, any international instrument, owing to the differences in many countries between private and public employment, as well as the difficulties of interpretation which have arisen in respect of the application of relevant provisions of the Right to Organise and Collective Bargaining Convention, 1949, to public servants, and the observations of the supervisory bodies of the ILO on a number of occasions that some governments have applied these provisions in a manner which excludes large groups of public employees from coverage by that Convention, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Relations (Public Service) Convention, 1978:

¹ Ed.: This Convention came into force on 25 February 1981.

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.

2. The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

3. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

Article 2

For the purpose of this Convention, the term public employee means any person covered by the Convention in accordance with Article 1 thereof.

Article 3

For the purpose of this Convention, the term public employees' organisation means any organisation, however composed, the purpose of which is to further and defend the interests of public employees.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 4

1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to-

- (a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organisation
- (b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organisation or because of participation in the normal activities of such an organisation.

Article 5

1. Public employees' organisations shall enjoy complete independence from public authorities.

2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

3. In particular, acts which are designed to promote the establishment of public employees' organisations under the domination of a public authority, or to support public

employees' organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

PART III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES' ORGANISATIONS

Article 6

1. Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

PART IV. PROCEDURES FOR DETERMINING TERMS AND CONDITIONS OF EMPLOYMENT

Article 7

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organisations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

PART V. SETTLEMENT OF DISPUTES

Article 8

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

PART VI. CIVIL AND POLITICAL RIGHTS

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

PART VII. FINAL PROVISIONS

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this

Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) The ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 159**RECOMMENDATION CONCERNING PROCEDURES FOR DETERMINING
CONDITIONS OF EMPLOYMENT IN THE PUBLIC SERVICE**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Relations (Public Service) Convention, 1978,

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Relations (Public Service) Recommendation, 1978:

1.

- (1) In countries in which procedures for recognition of public employees' organisations apply with a view to determining the organisations to be granted, on a preferential or exclusive basis, the rights provided for under Parts III, IV or V of the Labour Relations (Public Service) Convention, 1978, such determination should be based on objective and pre-established criteria with regard to the organisations' representative character.
- (2) The procedures referred to in subparagraph (1) of this Paragraph should be such as not to encourage the proliferation of organisations covering the same categories of employees.

2.

- (1) In the case of negotiation of terms and conditions of employment in accordance with Part IV of the Labour Relations (Public Service) Convention, 1978, the persons or bodies competent to negotiate on behalf of the public authority concerned and the procedure for giving effect to the agreed terms and conditions of employment should be determined by national laws or regulations or other appropriate means.
- (2) Where methods other than negotiation are followed to allow representatives of public employees to participate in the determination of terms and conditions of employment, the procedure for such participation and for final determination of these matters should be determined by national laws or regulations or other appropriate means.

3. Where an agreement is concluded between a public authority and a public employees' organisation in pursuance of Paragraph 2, subparagraph (1), of this Recommendation, the period during which it is to operate and/or the procedure whereby it may be terminated, renewed or revised should normally be specified.

4. In determining the nature and scope of the facilities which should be afforded to representatives of public employees' organisations in accordance with Article 6,

paragraph 3, of the Labour Relations (Public Service) Convention, 1978, regard should be had to the Workers' Representatives Recommendation, 1971.

Convention No. 154

CONVENTION CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING ¹

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Reaffirming the provision of the Declaration of Philadelphia recognising “the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve ... the effective recognition of the right of collective bargaining”, and noting that this principle is “fully applicable to all people everywhere”, and

Having regard to the key importance of existing international standards contained in the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Collective Agreements Recommendation, 1951, the Voluntary Conciliation and Arbitration Recommendation, 1951, the Labour Relations (Public Service) Convention and Recommendation, 1978, and the Labour Administration Convention and Recommendation, 1978, and

Considering that it is desirable to make greater efforts to achieve the objectives of these standards and, particularly, the general principles set out in Article 4 of the Right to Organise and Collective Bargaining Convention, 1949, and in Paragraph 1 of the Collective Agreements Recommendation, 1951, and

Considering accordingly that these standards should be complemented by appropriate measures based on them and aimed at promoting free and voluntary collective bargaining, and

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this nineteenth day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Collective Bargaining Convention, 1981:

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all branches of economic activity.
2. The extent to which the guarantees provided for in this Convention apply to the armed forces and the police may be determined by national laws or regulations or national practice.

¹ Ed.: This Convention came into force on 11 August 1983.

3. As regards the public service, special modalities of application of this Convention may be fixed by national laws or regulations or national practice.

Article 2

For the purpose of this Convention the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for –

- (a) determining working conditions and terms of employment; and/or
- (b) regulating relations between employers and workers; and/or
- (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations.

Article 3

1. Where national law or practice recognises the existence of workers' representatives as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971, national law or practice may determine the extent to which the term collective bargaining shall also extend, for the purpose of this Convention, to negotiations with these representatives.

2. Where, in pursuance of paragraph 1 of this Article, the term collective bargaining also includes negotiations with the workers' representatives referred to in that paragraph, appropriate measures shall be taken, wherever necessary, to ensure that the existence of these representatives is not used to undermine the position of the workers' organisations concerned.

PART II. METHODS OF APPLICATION

Article 4

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or in such other manner as may be consistent with national practice, be given effect by national laws or regulations.

PART III. PROMOTION OF COLLECTIVE BARGAINING

Article 5

1. Measures adapted to national conditions shall be taken to promote collective bargaining.

2. The aims of the measures referred to in paragraph 1 of this Article shall be the following:

- (a) collective bargaining should be made possible for all employers and all groups of workers in the branches of activity covered by this Convention;

- (b) collective bargaining should be progressively extended to all matters covered by subparagraphs (a), (b) and (c) of Article 2 of this Convention;
- (c) the establishment of rules of procedure agreed between employers' and workers' organisations should be encouraged;
- (d) collective bargaining should not be hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules;
- (e) bodies and procedures for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining.

Article 6

The provisions of this Convention do not preclude the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machinery or institutions, in which machinery or institutions the parties to the collective bargaining process voluntarily participate.

Article 7

Measures taken by public authorities to encourage and promote the development of collective bargaining shall be the subject of prior consultation and, whenever possible, agreement between public authorities and employers' and workers' organisations.

Article 8

The measures taken with a view to promoting collective bargaining shall not be so conceived or applied as to hamper the freedom of collective bargaining.

PART IV. FINAL PROVISIONS

Article 9

This Convention does not revise any existing Convention or Recommendation.

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 163

RECOMMENDATION CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Collective Bargaining Convention, 1981,

adopts this nineteenth day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Collective Bargaining Recommendation, 1981:

I. METHODS OF APPLICATION

1. The provisions of this Recommendation may be applied by national laws or regulations, collective agreements, arbitration awards or in any other manner consistent with national practice.

II. MEANS OF PROMOTING COLLECTIVE BARGAINING

2. In so far as necessary, measures adapted to national conditions should be taken to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organisations.

3. As appropriate and necessary, measures adapted to national conditions should be taken so that –

- (a) representative employers' and workers' organisations are recognised for the purposes of collective bargaining;
- (b) in countries in which the competent authorities apply procedures for recognition with a view to determining the organisations to be granted the right to bargain collectively, such determination is based on pre-established and objective criteria with regard to the organisations' representative character, established in consultation with representative employers' and workers' organisations.

4.

- (1) Measures adapted to national conditions should be taken, if necessary, so that collective bargaining is possible at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry, or the regional or national levels.
- (2) In countries where collective bargaining takes place at several levels, the parties to negotiations should seek to ensure that there is co-ordination among these levels.

5.

- (1) Measures should be taken by the parties to collective bargaining so that their negotiators, at all levels, have the opportunity to obtain appropriate training.
- (2) Public authorities may provide assistance to workers' and employers' organisations, at their request, for such training.
- (3) The content and supervision of the programmes of such training should be determined by the appropriate workers' or employers' organisation concerned.
- (4) Such training should be without prejudice to the right of workers' and employers' organisations to choose their own representatives for the purpose of collective bargaining.

6. Parties to collective bargaining should provide their respective negotiators with the necessary mandate to conduct and conclude negotiations, subject to any provisions for consultations within their respective organisations.

7.

- (1) Measures adapted to national conditions should be taken, if necessary, so that the parties have access to the information required for meaningful negotiations.
- (2) For this purpose –
 - (a) public and private employers should, at the request of workers' organisations, make available such information on the economic and social situation of the negotiating unit and the undertaking as a whole, as is necessary for meaningful negotiations; where the disclosure of some of this information could be prejudicial to the undertaking, its communication may be made conditional upon a commitment that it would be regarded as confidential to the extent required; the information to be made available may be agreed upon between the parties to collective bargaining;
 - (b) the public authorities should make available such information as is necessary on the over-all economic and social situation of the country and the branch of activity concerned, to the extent to which the disclosure of this information is not prejudicial to the national interest.

8. Measures adapted to national conditions should be taken, if necessary, so that the procedures for the settlement of labour disputes assist the parties to find a solution to the dispute themselves, whether the dispute is one which arose during the negotiation of agreements, one which arose in connection with the interpretation and application of agreements or one covered by the Examination of Grievances Recommendation, 1967.

III. FINAL PROVISION

9. This Recommendation does not revise any existing Recommendation.