



## Governing Body

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Institutional Section

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### FIFTH ITEM ON THE AGENDA

## Matters arising out of the work of the 104th Session of the International Labour Conference: Follow-up to the resolution concerning the recurrent discussion on social protection (labour protection)

#### Purpose of the document

The paper proposes the focus, objective and main elements of the plan of action (2015–22) to give effect to the conclusions of the discussion on social protection (labour protection) adopted by the International Labour Conference at its 104th Session, 2015.

The Governing Body is invited to provide guidance on the proposed follow-up plan (see the draft decision in paragraph 22)

**Relevant strategic objective:** Social protection.

**Policy implications:** The plan of action will influence the work of the Office concerning labour protection for the foreseeable period, possibly 2015–22 based on the seven-year timeline adopted for the previous recurrent discussion cycle, as well as the wider related role of the Organization at the international level, including in relation to the follow-up to the recently-adopted 2030 Agenda for Sustainable Development.

**Legal implications:** None.

**Financial implications:** Implications for future programme and budget proposals beyond 2016–17. Extra-budgetary resource mobilization is required for the implementation of the follow-up plan.

**Follow-up action required:** Adaptation of the plan of action by the Conditions of Work and Equality Department to take into account the guidance of the Governing Body.

**Author unit:** Conditions of Work and Equality Department (WORKQUALITY).

**Related documents:** *Provisional Record* No. 12-1, 104th Session, International Labour Conference, 2015; GB.325/INS/2; GB.325/INS/3; GB.325/INS/5/2; GB.325/INS/6; GB.325/POL/1/1; GB.325/POL/1/2; GB.325/POL/4; GB.325/LILS/3; GB.325/LILS/4.



## Introduction

1. At its 104th Session (June 2015), the International Labour Conference (ILC) conducted a recurrent discussion on the strategic objective of social protection (labour protection), under the ILO Declaration on Social Justice for a Fair Globalization, 2008.
2. This was the first time that the Conference had examined the labour protection dimension of the social protection objective,<sup>1</sup> giving ILO constituents the opportunity to discuss experiences and challenges regarding wages, working time, occupational safety and health (OSH) and maternity protection. The Conference also reviewed action to assist Members including in follow-up to recent related meetings of experts, ILC and Governing Body discussions, and in the framework of selected areas of critical importance (ACIs).<sup>2</sup> The Conference adopted a resolution and conclusions.
3. This paper proposes follow-up action to give effect to these conclusions. In line with the seven-year timelines of the plans of action elaborated in the context of the previous recurrent discussion on social protection (social security), the timeframe proposed for this plan of action is 2015–22.

## Proposed plan of action: Focus and objective

4. The conclusions of the recurrent discussion highlight the centrality of labour protection for achieving decent work, social justice and peace. The regulation of working conditions, either through laws or collective agreements, in the areas of wages, working time, OSH and maternity protection is key to affording workers labour protection.
5. Ongoing changes in employment patterns and work organization are generating new job opportunities but also challenge making labour protection a reality. This is especially the case for: (a) workers in NSFE; (b) workers in small and medium-sized enterprises (SMEs); and (c) workers who have traditionally been left out, totally or partly, from the coverage of certain protections. For some workers the issue is not the exclusion from legal protection, but an inadequate level of protection. In yet other cases, the problem can be an insufficient enforcement of the law. Overall, women as well as particular groups of workers, such as migrant workers, youth, or people living with HIV and AIDS, are more exposed to labour protection deficits.
6. The objective of this plan of action is to achieve inclusive, comprehensive and effective labour protection for all workers in line with the Conference conclusions. This requires that national laws, regulations and institutions: (a) keep pace with the transformations in the world of work; (b) extend coverage to all workers; and (c) establish a level of protection to ensure workers' well-being and prevent informality. Compliance with the applicable laws and regulations shall be ensured by effective enforcement mechanisms, primarily labour inspection, in the interest of both workers and employers by precluding anti-competitive business practices that have detrimental impact on responsible businesses.

<sup>1</sup> ILC: *Provisional Records* Nos 12-1 and 12-2, 104th Session, 2015. In 2011, the ILC held a recurrent discussion on social protection (social security).

<sup>2</sup> These include: ACI 6 on “Formalization of the informal economy”, ACI 7 on “Strengthening workplace compliance through labour inspection” and ACI 8 on “Protecting workers from unacceptable forms of work”.

7. ILO action therefore needs to assist member States in designing and applying laws and policies that ensure adequate labour protection for all workers, including through the strengthening and extension of existing protections, the development of protections that are responsive to changes in the world of work, and improvement in their implementation through better law enforcement and assistance to employers.

## Guiding principles and core elements

8. The plan of action recognizes the complementarity and interlinkages between wages, working time, OSH, and maternity protection and deepens interventions in each policy area. This approach will also link to the pursuit of the other strategic objectives and the conclusions of related recurrent item discussions, underpinned by respect for fundamental principles and rights at work. Complementarity between national legislation and collective bargaining is a central feature.
9. It is proposed that the plan of action:
  - Take into account relevant international labour standards, the diversity and specificity of country circumstances, the needs and concerns of governments, employers and workers, as well as requests for technical assistance in the four areas of labour protection.
  - Integrate gender equality and non-discrimination across its activities and target specific groups of workers that are more vulnerable to labour protection deficits.
  - Combine ILO's different means of action, including relevant international labour standards, policy research and advice, capacity building for constituents, development cooperation at country level, and global advocacy. In all activities, dialogue will be facilitated and partnerships strengthened at national, regional and global levels.
  - Promote action that can bolster achievement of the 2030 Agenda for Sustainable Development Goals.
10. The main proposed activities are organized under six action areas, as specified in the conclusions of the discussion. Within each of these areas are the thematic priorities aimed at improving coverage, level of protection and compliance; enhancing synergies between the areas of labour protection; or addressing all dimensions concurrently through the lens of a particular group of workers. The plan also seeks to facilitate the exchange of good practices among member States and between social partners.

## Standards-related action

11. Improving labour protection requires that the Office support the promotion of the ratification and effective implementation of existing international labour standards and provide technical support for assessing and addressing regulatory gaps, if so decided by the Governing Body. The Office therefore proposes the following actions.
12. Promotion of ratification and implementation of existing international labour standards on:
  - (a) *Minimum wages*. Responding to concerns expressed by some constituents during the 2014 Conference discussion of the General Survey on minimum wage systems, fact sheets will be prepared to improve the understanding of selected provisions of the Minimum Wage Fixing Convention, 1970 (No. 131), and Recommendation

(No. 135). User-friendly tools on wage-protection instruments, particularly the Protection of Wages Convention, 1949 (No. 95), will be produced and technical assistance will be offered to countries contemplating ratification of these standards or improvement in their application. Assistance will take into account gender dimensions of minimum wage fixing and wage protection.

- b) *OSH*. The plan of action (2010–16) to achieve widespread ratification and effective implementation of the Occupational Safety and Health Convention, 1981 (No. 155), its 2002 Protocol, and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), has brought the total number of ratifications for Convention No. 155 to 63 and for Convention No. 187 to 33. The Office will identify opportunities for ratification and implementation of these standards, while strengthening national tripartite bodies that have proved critical to promoting the dialogue necessary for ratification and implementation. The results of the 2017 General Survey of OSH instruments will further inform this work.
- c) *Public procurement*. The ratification and implementation of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), will be promoted, including through the employment' intensive investment in infrastructure and the ILO International Training Centre's (Turin Centre) well-established public procurement training.

**13. Promotion of ratification and implementation of international labour standards concerning workers at high risk of labour protection deficits:**

- (a) *Women at work*. With the renewed international commitment to raise women's participation in labour markets and their access to decent jobs, the ILO key gender equality Conventions, namely the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183), acquire further relevance, as do the Domestic Workers Convention, 2011 (No. 189), the Part-Time Work Convention, 1994 (No. 175), and the Home Work Convention, 1996 (No. 177). Special attention will be given to promoting the latter two Conventions, in light of their growing relevance.
- (b) *Migrant workers*. The Fair Migration Agenda, with its emphasis on protecting migrant workers from unequal treatment and abuse, while generating more decent jobs in countries of origin, is of key relevance to the current debates on crisis-related migration. A global strategy to promote the ratification and application of the Migration for Employment Convention (Revised), 1949 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) will be promoted. The strategy will be informed by the findings of the General Survey on labour migration and the related Conference discussion in June 2016. The results of the implementation of the Survey will contribute to the preparation of a possible discussion on labour migration that may occur at the 2018 session of the Conference, if approved by the Governing Body.<sup>3</sup>
- (c) *Workers with HIV and AIDS*. The Office will continue to promote the implementation of the HIV and AIDS Recommendation, 2010 (No. 200), to eliminate stigma and discrimination towards persons living with HIV and AIDS. Focus will be on supporting countries to upscale confidential testing and access to treatment and ensure social protection coverage for these persons and their families.

<sup>3</sup> GB.325/INS/2.

**14. Assessing and addressing possible regulatory gaps:**

- (a) *Violence at work*. The issue of violence against women and men in the world of work has been proposed as a possible item on the agenda of the 106th Session (2017) of the Conference for either a general discussion; or, as a standard-setting item, for a first discussion, pursuant to the provisions on the preparatory stages of the double discussion procedure contained in article 39 of the Standing Orders of the Conference.<sup>4</sup> Depending on the Governing Body's decision, preparatory and follow-up work would be undertaken by the Office.
- (b) *Non-standard forms of employment (NSFE)*. As called for in the Conclusions of the Meeting of Experts on Non-Standard Forms of Employment as well as in the conclusions adopted by the Conference a meeting of experts could be convened by the Governing Body for 2017 to explore possible regulatory gaps and establish whether there is need for new standards on NSFE. The Conference conclusions also refer in this regard to the possible role of the Standards Review Mechanism (SRM). It is expected that the interaction and coordination between such a meeting of experts and the SRM will be clarified as a result of the Governing Body's discussion on the terms of reference of the Standards Review Mechanism Tripartite Working Group. In addition, the Office will produce a guide to existing instruments relevant to NSFE in order to promote awareness and compliance.
- (c) *Working time and work-life balance*. A tripartite meeting of experts on the impact of changes in technology, business models and practices and the scheduling of working time to meet the demands of work, rest and personal life, and income security, will be held, with the objective of developing recommendations for further work by the ILO and its constituents. A General Survey on all existing standards on working time could be prepared to inform this meeting as well as the next recurrent discussion on social protection (labour protection).<sup>5</sup> This has been proposed for consideration by the Governing Body during the current session.<sup>6</sup>

**Knowledge building and dissemination**

**15.** The Office will increase efforts to build its knowledge base on ongoing areas of work that are central to labour protection as well as on emerging areas identified in the conclusions. These include:

- (a) *NSFE*. The Office will collect and analyse data on the different forms of non-standard employment and their implications for workers, enterprises, by enterprise size, whenever possible, economies and societies. Research will address issues such as the need to promote equality, non-discrimination and freedom of association and collective bargaining rights; support labour market transitions; ensure adequate social security coverage and safe and healthy workplaces; and decent working conditions. Research on emerging themes such as crowd-work and the gig economy (or "on demand economy") will be launched. A report on non-standard employment, with data and analysis on a global level and policy recommendations based on best-practice findings, will be published in 2016.

<sup>4</sup> GB.325/INS/2.

<sup>5</sup> The next relevant Conference review of a General Survey includes OSH (2017).

<sup>6</sup> GB.325/LILS/4.

- (b) *Wages.* The Global Wage Report will continue to be the flagship vehicle for the dissemination of ILO research and policy advisory services on wage policies. Accumulated knowledge on minimum wage policies will be translated in user-friendly multiple products for use by constituents and experts. This resource package will cover issues such as extending minimum wages' coverage to unprotected workers and improving compliance, and will be used in capacity-building activities. More empirical research will be undertaken on wage formation in enterprises, including by size of enterprises, where possible; the criteria for minimum wage fixing in line with Convention No. 131, and on wage protection, including the payment of wages, lawful wage deductions, and its regulation. The issue of youth wages and minimum wages for young people will be addressed in this context.
- (c) *Working time.* Comparative legal research will be conducted and proposals will be made on how to afford adequate protection to nursing personnel and domestic workers, who are excluded from the scope of the main ILO standards on working time. Research will be undertaken on ways to curb unduly long hours of work through studies on the law and practice of rest hours, as well as on working time arrangements characterized by unpredictability and high variability of work schedules. A study on the use of new information and communication technologies (ICTs) to perform work outside of the employer's premises and its effects on working time, work-life balance, job performance, and workers' health and well-being will be carried out together with the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) in ten EU Member States and five non-EU countries.
- (d) *OSH.* A global study on psychosocial risk and work-related stress will be conducted with a view to developing methods to assist constituents in responding to working conditions that cause psychosocial risks and hazards, including in the informal economy.<sup>7</sup> Guidelines to assist constituents in mainstreaming gender concerns in national OSH policies and programmes will be prepared and disseminated.
- (e) *Freedom of association and collective bargaining.* Policy and information briefs will be produced on good practices of regulatory and other initiatives to extend collective bargaining coverage, in accordance with national law and practice, and to help close the representational gap in select sectors, including contract cleaning, private security, construction, fishing, agriculture and domestic work, as well as on ways to include migrant workers, contract workers and workers in SMEs, in collective agreements.
- (f) *Gender equality.* The women at work centenary initiative will examine the status and conditions of women in the world of work,<sup>8</sup> informed by a survey on women's and men's perceptions regarding gender equality gains, gaps, obstacles and discrimination at work. The survey will be designed together with and conducted by a reputable global survey firm. A forthcoming report will analyse changes in women's access to employment and decent working conditions over the last 20 years, and enabling national and workplace policies.
- (g) *Migrant workers.* Studies will be undertaken on economic sectors with high participation of migrant workers such as care work, agriculture, construction and mining, with a view to addressing concerns over dire working conditions and unequal pay as sources of unfair competition. The studies will contain recommendations for follow-up action.

<sup>7</sup> GB.325/POL/1/2.

<sup>8</sup> GB.322/INS/13/2.

## Technical advisory services and cooperation

16. The Office will make efforts to scale-up technical cooperation, particularly in areas with heavy demand:
- (a) *Wage policies.* The Office will facilitate the exchange and dissemination of good practices through regional training activities and peer exchange forums and will increase the number of wage specialists in the field. The Office will also seek to develop further technical cooperation projects that cover wages and collective bargaining, such as that undertaken with the Government of the Federal Republic of Germany on labour standards in the garment industry. These promote an integrated approach, seeking to improve compliance at the factory level, as well as policy frameworks at national levels.<sup>9</sup>
  - (b) *Working time.* The Office will continue to provide technical assistance and policy advice on working time arrangements that can effectively reconcile workers' and enterprises' needs.
  - (c) *OSH.* Drawing on the experience of the ILO Plan of Action on OSH (2010–16), the Office will assist member States in developing national OSH programmes and OSH profiles, and including OSH in Decent Work Country Programmes (DWCPs). The recently-announced OSH Global Action for Prevention flagship programme will become the main vehicle for the Office to give effect to the recurrent discussion's conclusions, including in respect of strengthening labour inspectorates as part of a more effective compliance strategy.
  - (d) *Fair migration.* The Office will support member States in giving effect to the ILO's Fair Migration Agenda through dialogues among and between regions and by offering assistance on improving labour rights of all migrants and on ensuring fair recruitment and equal treatment of migrant workers.
  - (e) *Domestic work.* During 2011–15 assistance was given to constituents in some 50 countries to extend adequate and effective labour protections to domestic workers as part of the Governing Body approved strategy to make decent work a reality for domestic workers. The forthcoming impact assessment of the strategy will inform future services by the Office in this area.
17. Technical advisory demands are likely to increase with respect to psychosocial risks and NSFE. The Office is making preparations to meet this expected demand, including methods to build capacity of employers' and workers' organizations to assist their constituents.

## Capacity building

18. Drawing upon research and national level policy advisory services and training, the Office proposes to develop capacity-building resources in the following areas:
- (a) *Gender equality through collective bargaining.* A resource package will be developed and training material up-dated on clauses in collective agreements that improve

<sup>9</sup> Such projects also give effect to the Recommendations for action of the Global Dialogue Forum on Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries [http://www.ilo.org/sector/Resources/recommendations-conclusions-of-sectoral-meetings/WCMS\\_311155/lang--en/index.htm](http://www.ilo.org/sector/Resources/recommendations-conclusions-of-sectoral-meetings/WCMS_311155/lang--en/index.htm).

maternity protection, tackle violence at work and advance equal pay, in a range of sectors and countries. Innovative practices, such as collective bargaining for domestic workers and clauses in collective agreements covering non-standard workers and/or providing special leave in cases of domestic violence will be reported. Capacity building for employers' organizations on how to strengthen the case for equitable financing mechanisms for maternity protection will be conducted.

- (b) *Working time and maternity protection in SMEs.* Training materials will be developed to facilitate the implementation of working time arrangements in SMEs that reconcile the needs of workers and employers and will be pilot tested in firms registered with the Sustaining Competitive and Responsible Enterprises (SCORE) programme. Practical guidance will be developed following an international review on good practices of maternity protection in SMEs. As follow-up to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Office will support efforts to extend legal protection to workers in SMEs, including through incentives-based compliance measures.
- (c) *Learning from the experience of domestic workers.* Best practices and lessons learned in extending labour protections to domestic workers will be consolidated into a modular training package for interested constituents.
- (d) *Partnering with the Turin Centre.* The long-standing cooperation with the Turin Centre on labour protection issues will be strengthened through the organization of Academies on Gender Equality, Labour Migration, and Unacceptable Forms of Work, and the courses on HIV and AIDS and the world of work: A prevention and social protection perspective, and on Evolving forms of employment relationships and decent work. Training modules on preventing and addressing violence at work will be developed and jointly tested. The resource package on minimum wages will be disseminated through global and regional training activities undertaken jointly with the Turin Centre. Existing modules on wages, OSH, working time, maternity protection and domestic workers will be revamped and included in the interregional course on international labour standards for the delegates at the Conference.

## Monitoring and impact evaluation

19. The discussion identified the importance of monitoring and impact evaluation, for which the Office proposes to develop the following new tools:

- (a) *Monitoring global legal trends in respect of labour protection.* The existing ILO legal databases regarding the different policy areas of labour protection<sup>10</sup> will be brought together under one common portal to improve access, and lower maintenance costs.
- (b) *Monitoring working conditions in developing countries.* In cooperation with EUROFOUND, the Office will adapt and apply the European Working Conditions Survey (EWCS) to non-European countries and will work on the analysis and dissemination of findings in 2016–17. Subject to funding availability, the EWCS will be applied to other countries.

<sup>10</sup> The Working Conditions Law database, the Industrial Relations database, the Employment Protection Legislation database, the Global Wages database and the Global Database on Occupational Safety and Health Legislation.

- (c) *NSFE (fixed-term contracts)*. The Office will extend its methodology<sup>11</sup> for quantifying legal information on employment protection legislation to fixed-term contracts, to support monitoring of impacts of legislation.
- (d) *Wage policies*. The Office will develop and test, in a select number of countries, methodologies to monitor the effects of minimum wages on the distribution of wages and incomes, the level of employment, poverty reduction, the transition from the informal to the formal economy, and enterprise productivity.
- (e) *Revision of the 1993 International Classification of Status in Employment (ISCE-93)*. The Office will play a leading role in supporting the revision of the ICSE-93, which will be the future tool for monitoring trends in work for payment or profit, including NSFE and various types of self-employment.
- (f) *OSH*. The Office will develop a methodology and means for collecting data related to OSH, including data regarding occupational accidents and diseases for preventive purposes taking into account the relevant ILO standards. Indicators will be designed that support the assessment of progress, monitoring OSH commitments and the impact of ILO assistance.

## **Implementation, funding, monitoring and reviews of the plan of action**

- 20. Continued efforts will be made to mobilize extra-budgetary resources to support the plan of action.
- 21. The plan of action requires cooperation and coordination across the Office, in headquarters and the field. During the next few years, the relevance of the activities will need to be reviewed and implementation should be monitored and updated, in alignment with the programming cycle of the Office's results-based management process, including the programme and budget, the outcome-based work plans and the DWCPs.

### ***Draft decision***

- 22. ***The Governing Body requests the Director-General to take into account its guidance in pursuing the plan of action giving effect to the conclusions concerning the first recurrent discussion on social protection (labour protection) and to draw on it in preparing future programme and budget proposals, and in developing resource mobilization initiatives.***

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<sup>11</sup> ILO: Employment protection legislation summary indicators in the area of terminating regular contracts (individual dismissals), Geneva, 2015. Available at: [http://www.ilo.org/travail/areasofwork/WCMS\\_357390/lang--en/index.htm](http://www.ilo.org/travail/areasofwork/WCMS_357390/lang--en/index.htm).