

III

Resolution concerning the recurrent discussion on social protection (labour protection)¹

The General Conference of the International Labour Organization, meeting at its 104th Session, 2015,

Having undertaken a recurrent discussion on social protection (labour protection) in accordance with the ILO Declaration on Social Justice for a Fair Globalization, to consider how the Organization may respond more effectively to the realities and needs of its Members through coordinated use of all its means of action,

1. Adopts the following conclusions;
2. Invites the Governing Body of the International Labour Office to give due consideration to the conclusions and to guide the International Labour Office in giving effect to them; and
3. Requests the Director-General to:
 - (a) communicate the conclusions to relevant global and regional international organizations for their attention;
 - (b) prepare a plan of action to give effect to the conclusions, for consideration of the Governing Body;
 - (c) take into account the conclusions when preparing future programme and budget proposals and facilitating extra-budgetary activities; and
 - (d) keep the Governing Body informed of implementation.

Conclusions concerning the recurrent discussion on social protection (labour protection)

I. LABOUR PROTECTION IN A TRANSFORMING WORLD OF WORK

1. Labour protection is at the heart of the mandate of the ILO. It is instrumental for achieving decent work and for contributing to social justice and social peace. It is as fundamental today as it was when the ILO was founded, nearly a century ago. Labour protection and social security are complementary, and together provide the social protection that workers and their families need. The regulation of working conditions in the areas of wages, working time, occupational safety and health (OSH), and maternity protection is central to effective and inclusive labour protection. Effective systems of social dialogue and collective bargaining contribute to these protections.

2. Important progress has been made in advancing labour protection among ILO member States. Minimum wage systems have been established or strengthened in many countries to address working poverty and inequality. Measures have been adopted to guarantee the regular and full payment of wages due, and collective bargaining has contributed to improvements in real wages. With respect to working time, there has been progress in setting limits on weekly hours, contributing to the reduction in average annual working hours in many countries. There have also been advances in OSH, with countries recognizing the need for comprehensive legislation and OSH management systems, including prevention, compliance and awareness raising. Regarding maternity protection, many countries have aligned the duration of paid maternity leave to ILO

¹ Adopted on 12 June 2015.

standards and introduced paternity leave. However, there have also been negative trends. Too many workers do not benefit from the progress made, as they are either excluded from the scope of the law, the law is not applied in practice, or the level of protection is inadequate.

3. Ongoing transformations including those driven by technology; globalization; changes in policies, business models and practices, such as outsourcing; and labour migration flows, have profoundly changed patterns of employment and the world of work. They have generated, in some instances, new opportunities for employment and economic growth, but have also tested existing regulation on labour protection. The growth in non-standard forms of employment (NSFE) and in subcontracting, together with the decline in the coverage of collective bargaining, has created challenges with respect to affording effective labour protection for workers, particularly the most vulnerable groups.

4. For effective implementation, regulation needs to take the diversity of the labour market into account. Small and medium-sized enterprises (SMEs)¹ face particular challenges for the effective implementation of labour protection. Some firms may fall below thresholds of existing labour legislation, or operate in the informal economy where compliance is weak. Facilitating transitions from informality to formality is beneficial to all. For enterprises, it permits access to credit and affords legal protections; it also levels the playing field among enterprises, mitigating unfair competition. For governments and society at large, formalization helps to increase the tax base, permitting the funding of social protection programmes, public employment services, labour inspection, and other public goods and services. For workers, formality allows more people to benefit from labour protection and other social protection benefits.

5. All workers should enjoy adequate protection in accordance with the Decent Work Agenda, guided by international labour standards, and taking into account different national circumstances. Regulations and institutions that govern labour protection need to keep pace with the transformations in the world of work. In particular, priority should be given to initiatives in the following areas:

- (a) *Extending coverage to all workers.* Governments and social partners should identify and close gaps in the coverage of legal protection, paying special attention to occupations and sectors that are excluded, to non-standard forms of employment, and to social groups that are most at risk. Collective bargaining can be an important complement to legislation and it can also be used to provide protection to excluded groups.
- (b) *Determining the appropriate level of protection.* Inadequate and inappropriate levels of protection can shift costs from enterprises to workers, society and government, can put workers' well-being at risk, and can undermine effective implementation and risk encouraging informality. Social dialogue and collective bargaining can help strike the balance between the legitimate needs of both workers and enterprises.
- (c) *Ensuring compliance.* Non-compliance with laws, regulations and collective agreements undermines effective labour protection, hurting workers, law-abiding enterprises, and communities and economies at large. The primary responsibility for law enforcement lies with governments, but employers, workers and their organizations all have a role to play in promoting and ensuring compliance.

6. In the interests of workers, sustainable enterprises, and societies as a whole, decent working conditions and appropriate protection must be afforded to all workers, without distinction. Discrimination, as defined by Article 1 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), of

¹ The acronym SMEs encompasses micro, small and medium-sized enterprises. See ILO: *Small and medium-sized enterprises and decent and productive employment creation* (ILO Geneva, 2015) (ILC.104/IV).

particular groups, such as migrant workers, youth and women workers, risks creating downward pressure on labour conditions for all workers, and may lead to unfair competition between enterprises, undermining economic progress and social justice.

II. TOWARDS INCLUSIVE AND EFFECTIVE LABOUR PROTECTION

7. ILO constituents can draw on the good practices of ILO Members, the Conclusions of the Meeting of Experts on Non-Standard Forms of Employment¹ and the Tripartite Meeting of Experts on Working-time Arrangements,² as well as the General Survey on minimum wage systems,³ and the outcome of its discussion by the Conference at its 103rd Session,⁴ to improve labour protection policies. Wage policies, working time, OSH and maternity protection constitute complementary and interlinked elements of a strategy for decent work and sustainable development, as based on the ILO Declaration on Social Justice for a Fair Globalization. Strengthening labour protection in one area has positive implications in the other dimensions, with mutually reinforcing outcomes. In all four areas of labour protection, the gender dimension should be reinforced.

Wage policies

8. Effective wage-setting institutions help ensure a just and equitable share of the fruits of progress to all. Minimum wages are used by governments and social partners to provide protection for wage earners against unduly low wages and as one element in a policy designed to overcome poverty. For this protection to be meaningful, minimum wages have to be set at a level that covers the needs of workers and their families, while taking into account economic factors, in accordance with the Minimum Wage Fixing Convention, 1970 (No. 131), Article 3(a) and (b). They should afford adequate protection to all workers in an employment relationship, including women, youth and migrant workers, regardless of their contractual arrangements. Sound wage-setting institutions should also address rising inequalities, including those between men and women, by promoting the right to equal remuneration for work of equal value.

9. The direct participation of representatives of organizations of employers and workers in the operation of minimum wage-fixing bodies is essential to set the level of minimum wages in line with the situation in each country, taking into consideration both social and economic factors. Minimum wage rates should be adjusted at regular intervals to take account of changes in the cost of living and other economic conditions. This mechanism has been used in many countries to progressively adjust wage levels.

10. Collective bargaining offers a mechanism for coordinated wage setting. Collective agreements on wages can be used to establish minimum standards and to set wages above an existing floor. Extension of collective agreements to all enterprises, in accordance with national law and practice, can

¹ Conclusions of the Meeting of Experts on Non-Standard Forms of Employment (16–19 February 2015) (GB.323/POL/3).

² Conclusions of the Tripartite Meeting of Experts on Working-time Arrangements (17–21 October 2011) (GB.313/POL/1).

³ ILO Report III (1B): *Minimum wage systems: General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, Report of the Committee on the Application of Conventions and Recommendations, International Labour Conference, 103rd Session, 2014.

⁴ ILO: Outcome of the discussion by the Committee on the Application of Standards of the General Survey concerning minimum wage systems, International Labour Conference, 103rd Session, 2014, *Record of Proceedings* No. 13, Part One, paras 165–166.

be used to ensure fair competition by providing a level playing field and extend coverage to all workers. Collective bargaining and social dialogue also offer an important vehicle to enable workers to participate in the success of enterprises and to gain a fair share in the benefits of economic activities and increased productivity.

11. Effective labour protection also requires that all workers are paid their wages regularly, in full and without any unlawful deductions. Measures to achieve this include the documentation of wage payments by employers and effective remedies for workers to recover unpaid wages. Labour inspectors and workers' organizations play an important role in promoting and monitoring compliance with minimum wage regulations, collective agreements and employment contracts. Enforcement measures are essential to preclude anti-competitive practices, which have detrimental effects for responsible businesses, workers and society at large.

Working time

12. The regulation of the hours of work, including the establishment of a maximum working day and week, for all workers regardless of the type of employment relationship, is a principle enshrined in the ILO's Constitution and remains an important objective. The reduction of long working hours can improve workers' health, workplace safety, work-life balance, and, ultimately, sustainable enterprise productivity. Regulatory measures are essential in this regard. Working-time arrangements and reductions in long hours can also be advanced through collective bargaining at all levels and through workplace initiatives.

13. Flexible working-time arrangements can be mutually beneficial when they meet the legitimate needs of enterprises and workers. One example is part-time work that is productive and freely chosen, consistent with the Part-Time Work Convention, 1994 (No. 175). Policies should be designed to ensure that the principle of equal treatment for part-time workers with comparable full-time workers is given full effect with respect to labour protection in line with this Convention. Policies, collective bargaining, social dialogue and workplace initiatives can be used to enable part-time workers to have sufficient hours of work to meet their needs.

14. Beside the number of hours worked, how working hours are arranged can affect workers' well-being and enterprise performance. For example, highly variable and unpredictable work schedules can impact on work-life balance, income security and health, in particular mental health. Measures such as advance shift notification and guaranteed minimum paid hours can help accommodate the needs of individual workers, while meeting enterprises' requirements for flexibility. Collective bargaining can be an important tool for the adoption of these measures.

Occupational safety and health

15. Work-related fatalities, injuries and diseases, the vast majority of which are preventable, have a devastating impact on workers, their families and society. They also affect productivity and competitiveness of enterprises, impose costs on households and governments, and impede economic growth. The need to tackle new emerging risks associated with new ways of working and the changing world of work, such as chemical and other substances, psychosocial risks and violence at work, has been recognized as an urgent concern requiring concrete measures and tripartite commitment. Strategies aimed at ensuring decent work for all workers, including a more targeted emphasis on eliminating stigma and discrimination directed at persons living with and affected by HIV and AIDS and other pandemics, have gained momentum.

16. The principal OSH Conventions apply to all workers in all sectors and put strong emphasis on a culture of preventive safety and health. Yet in practice, many national laws and regulations provide only partial coverage. Even where coverage is comprehensive, compliance often remains a challenge. All too often, prevention strategies designed to anticipate, identify, evaluate and control both

existing and emerging hazards are, in practice, neither explored, implemented nor consistently sustained. This is particularly true for gender-related risks and for SMEs.

17. Strategies and tripartite commitments in relation to prevention, occupational safety and health are essential. Governments are responsible for enactment and enforcement of OSH laws, including through labour administration and inspection systems. Governments should also establish, in consultation with the social partners, national OSH policies, systems and programmes, and provide technical guidance to the parties concerned. Employers are ultimately responsible for the occupational safety and health of their workforce. To meet this responsibility, employers should develop OSH policies and management systems in consultation with workers and their representatives. Workers and their representatives also have a responsibility to contribute to workplace safety and health; cooperation between workers and employers helps to improve observance of OSH regulations, to lower accident rates and to reduce work-related health problems. Collection and analysis of statistics on work-related fatalities, injuries and diseases, and the monitoring of their trends are necessary for designing and agreeing on effective prevention and intervention strategies.

Maternity protection

18. Maternity protection is essential for protecting the health and safety of mother and child, for gender equality and women's enhanced participation in the labour force, helping to expand the pool of talent available to the economy. All women of childbearing age, including those in NSFE, should enjoy protection without discrimination, as provided for in the Maternity Protection Convention, 2000 (No. 183). Financing maternity benefits through general taxation or social security, rather than placing the liability on the employer, can mitigate disincentives to recruit women. Closing the coverage gap requires the design and implementation of viable strategies, including adapting workplaces and processes, for the gradual extension of maternity protection to all women.

19. Maternity leave, together with paternity or parental leave, are part of a broader set of work-family reconciliation measures for both men and women workers. These range from public policies and collective bargaining to workplace initiatives. The Workers with Family Responsibilities Convention, 1981 (No. 156), provides relevant guidance to this effect.

III. IDENTIFYING PRIORITIES FOR ILO ACTION TOWARDS MORE INCLUSIVE AND EFFECTIVE LABOUR PROTECTION

20. More inclusive and effective labour protection requires the use of all means at the disposal of the Office and the ILO's tripartite constituents. Priorities for action include:

- (a) *Ratification and effective implementation of international labour standards on labour protection.* Promote the ratification and application of the fundamental Conventions as well as the relevant international labour standards regarding wages, working time, OSH, maternity protection and other areas of labour protection. Analyse whether there are gaps in international labour standards or instruments that do not sufficiently respond to the reality of the contemporary world of work, including, but not limited to, using the Standards Review Mechanism. Provide assistance to ILO constituents to give practical effect to international labour standards, bearing in mind specific national circumstances.
- (b) *Knowledge building.* Continue efforts to improve data collection, including by revising the International Classification by Status in Employment (ICSE-93) to better capture the evolving nature of employment relationships. Enhance analysis and research on the four key policy areas and their interdependence. Explore the relationship of the four key policy areas with, and their impact on, job quality and enterprise

performance. Expand publications relevant to labour protection and maintain the flagship Global Wage Report as an authoritative source of information on wage trends and policy responses at national and global levels. Conduct research on innovative and inclusive approaches to collective bargaining.

- (c) *Technical cooperation.* Advise on national policy frameworks that address labour protection in an inclusive manner. Reinforce the focus on the gender dimension in future interventions. Provide technical assistance on the design of effective labour protection institutions, and on measures to extend protection to currently excluded groups. Strengthen labour inspectorates through training for inspectors, the development of guidelines and clear inspection methodologies, and the strategic use of information and communication technologies to increase the effectiveness of labour inspection. Develop methods to assist employers and workers in responding to changes in work organization and working conditions that are causing psychosocial risks, stress and mental health problems related to work. Provide guidance to improve the access of workers and their families to effective redress mechanisms, including through courts and alternative dispute settlement mechanisms, especially in cases of work-related fatalities, injuries and illnesses.
- (d) *Capacity building.* Increase efforts to build the capacity of constituents, including workers' and employers' organizations, on issues pertaining to labour protection. Raise awareness on labour protection, including rights and obligations under international labour standards. Enhance national capacities to acquire and use OSH knowledge and information to develop effective prevention policies, strategies, systems and programmes.
- (e) *Monitoring and impact evaluation.* Monitor and assess progress in the four key policy areas, including on compliance, and suggest appropriate measures based on the findings of these assessments. Conduct rigorous impact assessment of labour protection policies and evaluate their effects on workers' well-being, on labour force participation, particularly of women, on enterprise performance and growth, and on economic performance. Consider the development of indicators, both quantitative and qualitative, to monitor trends in the implementation of national OSH policies and interventions at the workplace.
- (f) *Exchange of good practices.* In the above areas, facilitate the exchange of good practices among member States and between social partners.

21. In view of the transformations in the world of work, particular attention needs to be given to the following:

- (a) *Working time and work-life balance.* Taking into account current challenges and looking to the future of work, provide guidance for integrated and innovative approaches to address the needs of both men and women workers in terms of the balance between work, family and private life, making full use of the relevant ILO Conventions. With a view to coming up with recommendations for further work by the ILO and its constituents in this area, the Governing Body may wish to consider organizing, within existing resources, a tripartite meeting of experts on the various developments and challenges and their impact on the organization and scheduling of working time, taking into account the needs of employers and workers.
- (b) *Extension of labour protection in SMEs.* Foster collaboration with constituents to support the effective coverage of labour protection and compliance by SMEs, both in the formal and informal economies, ensuring that laws and regulations on labour protection adequately cover all enterprises and workers.
- (c) *Effective protection of workers in NSFE.* Analyse whether there are gaps in international labour standards, or instruments that do not sufficiently reflect the reality of today's world of work, and identify barriers to ratification of standards. Address potential decent work deficits in the

private and the public sectors as called for in the Conclusions of the Meeting of Experts on Non-Standard Forms of Employment. Evaluate the need for additional international labour standards possibly through meetings of experts, as the Governing Body may wish to decide and within existing resources, and including, but not limited to, using the Standards Review Mechanism, to address temporary contracts, including fixed-term contracts, and discrimination based on employment status.

- (d) *Enabling environment for labour protection.* Examine and address possible barriers to freedom of association and collective bargaining in law and practice in order to enhance the ability of workers in NSFE to exercise their rights, including the possibility to negotiate with the relevant employer(s). Identify good practices, regulatory and other initiatives that are helping to close representational gaps, and use the knowledge to build the capacity of workers' and employers' organizations. Facilitate sharing of good practices and innovative approaches and offer governments and social partners guidance, training and technical support to address these barriers.
- (e) *Public procurement policies.* Promote labour protection through responsible public procurement practices and through the promotion of the ratification and effective implementation of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).
- (f) *Global supply chains.* In the upcoming discussion of the 105th International Labour Conference of 2016 on global supply chains, due regard should be paid to labour protection.