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# Working together to promote a safe and healthy working environment

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**International Labour Conference, 106th Session, 2017**

**General Survey on the occupational safety and health instruments concerning the promotional framework, construction, mines and agriculture**

**Occupational Safety and Health Convention (No. 187), and Recommendation (No. 197), 2006; Safety and Health in Construction Convention, 1988 (No. 167), and Recommendation (No. 175), 1988; Safety and Health in Mines Convention (No. 176), and Recommendation (No. 183), 1995; Safety and Health in Agriculture Convention (No. 184), and Recommendation (No. 192), 2001**

**Third item on the agenda:  
Information and reports on the application  
of Conventions and Recommendations**

**Report of the Committee of Experts on the Application  
of Conventions and Recommendations  
(articles 19, 22, 23 and 35 of the Constitution)**

**Report III (Part 1B)**

# **Working together to promote a safe and healthy working environment**

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# Summary

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# Introduction

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## 1. Background and scope of the General Survey

1. Article 19 of the Constitution of the International Labour Organization provides that Members shall “report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body” on the position of their law and practice in regard to the matters dealt with in unratified Conventions and in Recommendations.<sup>1</sup> On this basis, the ILO Governing Body selects each year the Conventions and Recommendations on which Members are requested to supply reports. These reports, as well as those submitted under articles 22 and 35 of the Constitution by the States parties to the Conventions concerned, allow the Committee of Experts on the Application of Conventions and Recommendations (the Committee) to establish General Surveys on the effect given, in law and in practice, to the instruments considered.

2. At its 322nd Session (November 2014), the Governing Body decided that the 2017 General Survey of the Committee would cover certain occupational safety and health instruments, namely, the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Agriculture Convention, 2001 (No. 184), and their respective Recommendations, in the context of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and its corresponding Recommendation. In choosing these instruments, the Governing Body specified that the General Survey would take into account the Committee’s conclusions from its 2009 General Survey on occupational safety and health concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, as well as the related discussion and conclusions of the Committee on the Application of Standards of the International Labour Conference (ILC) at its 98th Session (2009).<sup>2</sup>

3. During the discussion on the selection of the instruments to be covered by the General Survey, the Employer spokesperson indicated that occupational safety and health (OSH) was an area that deserved special attention by the ILO and its constituents. The ILO had an important role to play and ILO standards could be an important building block in that regard. A discussion on OSH instruments could give impetus to more cooperation between the ILO and its constituents towards improving the OSH situation in member

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<sup>1</sup> The obligations of Members with regard to Conventions are laid down in paragraph 5(e) of article 19 of the ILO Constitution. Paragraph 6(d) deals with Recommendations and paragraph 7(a) and (b) deals with the particular obligations of federal States.

<sup>2</sup> ILO: *Decision on the fourth item on the agenda: Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution in 2016*, Governing Body, 322nd Session, Oct–Nov. 2014, dec-GB.322/LILS/4.



States.<sup>3</sup> The Worker spokesperson indicated that, in the context of the ILO constitutional objective to protect workers against sickness, disease and injury arising out of employment, the situation in the construction, agriculture and mining sectors required special attention due to their hazardous nature and the high accident and death rates in those sectors.<sup>4</sup>

4. Following this decision, the Governing Body requested governments to submit reports, under article 19 of the ILO Constitution, on Conventions Nos 167, 176, 184 and 187 and their accompanying Recommendations, pursuant to a report form approved at its 323rd Session (March 2015).<sup>5</sup> The Committee notes that 111 governments provided reports on the position of national law and practice with respect to those OSH standards and that 41 workers' organizations and 17 employers' organizations, in addition to one bipartite national body,<sup>6</sup> provided information and observations regarding these instruments. The Committee notes that, in contrast, for the previous General Survey on Occupational Safety and Health of 2009, a higher number of governments' reports and a lower number of observations by workers' and employers' organizations were received.<sup>7</sup>

## 2. Context

5. According to ILO estimates, a worker dies from a work-related accident or disease every 15 seconds. Every day, some 6,300 workers die from occupational accidents or work-related diseases, amounting to more than 2.3 million deaths a year. Furthermore, over 313 million workers suffer non-fatal occupational injuries each year, or in other words 860,000 people are injured on the job every day. In addition to the tremendous human cost, estimates have identified the significant economic impact of inadequate occupational safety and health: 4 per cent of total global gross domestic product is lost annually (equivalent to US\$2.8 trillion) by costs related to lost working time, interruptions in production, treatment of occupational injuries and diseases, rehabilitation and compensation.<sup>8</sup> In this respect, as described below, the situation in the construction, mining and agricultural sectors appear particularly critical.

## Construction

6. Construction is a sector associated with a high number of occupational accidents and diseases. While work in construction represents between 5 and 10 per cent of the workforce in industrialized countries and an increasing proportion in many developing countries, approximately one in six fatal accidents at work occur on a construction site.<sup>9</sup>

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<sup>3</sup> ILO: *Minutes of the 322nd Session of the Governing Body of the International Labour Office*, Governing Body, 322nd Session, Geneva, Oct.–Nov. 2014, GB.322/PV, para. 519.

<sup>4</sup> *ibid.*, para. 520.

<sup>5</sup> ILO: *Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution in 2016*, Governing Body, 323rd Session, Geneva, March 2015, GB.323/LILS/3. See Appendix II of this General Survey. All 187 ILO member States were requested to submit the report.

<sup>6</sup> The National Labour Council in *Belgium*.

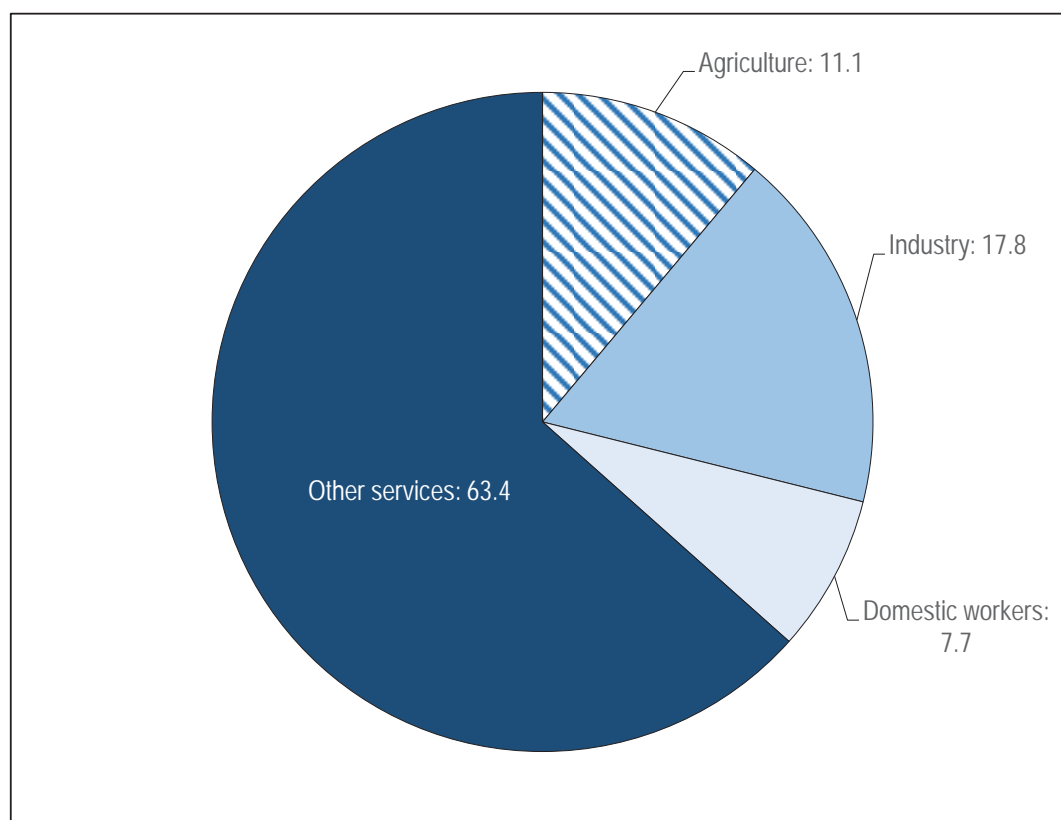
<sup>7</sup> A total of 123 governments sent their reports, while 28 workers' and employers' organizations provided observations. See ILO: *General Survey on occupational safety and health*, ILC, Report III (Part 1B), 98th Session, Geneva, 2009, paras 30–31.

<sup>8</sup> ILO: *Safety and health at work: A vision for sustainable prevention*. XX World Congress on Safety and Health at Work 2014: Global Forum for Prevention (Geneva, 2014).

<sup>9</sup> ILO: *Good practices and challenges in promoting decent work in construction and infrastructure projects*, Issues paper for discussion at the Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects, ILO Sectoral Policies Department (Geneva, 2015).

Construction workers are exposed to a wide variety of health hazards on the job.<sup>10</sup> The majority of construction activity is still undertaken by local firms and the industry remains labour intensive, with frequent changes of working environment that can involve multiple locations, many different parties and high rates of staff turnover.<sup>11</sup> In addition, the construction sector relies on a great number of migrant workers.<sup>12</sup> According to recent ILO global estimates on migrant workers, in 2013, 26.7 million (17.8 per cent) workers were engaged in industry, including manufacturing and construction, while 16.7 million workers were employed in agriculture (11.1 per cent) out of a total of 150.3 million migrant workers (see figure 1.1).<sup>13</sup>

**Figure 1.1. Global distribution of migrant workers, by broad branch of economic activity, 2013**  
(in percentage)



Source: ILO: *Global Estimates on Migrant Workers: Results and methodology* (Geneva, 2015).

<sup>10</sup> ILO: “Health and safety hazards in the construction industry”, Part XVI – Construction, in *Encyclopaedia of Occupational Health and Safety* (Geneva, 4th edition, 2011).

<sup>11</sup> *ibid.*, and ILO: *Industries and sectors: Construction sector* – Sectoral Policies Department: see <http://www.ilo.org/global/industries-and-sectors/construction/lang--en/index.htm> [last accessed 17 Jan. 2017].

<sup>12</sup> ILO: *Migrant work and employment in the construction sector*, M. Buckley, A. Zendel, J. Biggar, L. Frederiksen and J. Wells, ILO Sectoral Policies Department, ILO Conditions of Work and Equality Department (Geneva, 2016).

<sup>13</sup> ILO: *Global Estimates on Migrant Workers: Results and methodology* (Geneva, 2015), p. 9.

7. Each year, at least 60,000 fatal accidents occur on construction sites around the world,<sup>14</sup> and improved OSH is essential to addressing the major decent work deficits related to accidents and diseases in construction.<sup>15</sup>

## Mining

8. In many countries, the mining sector accounts for a disproportionate number of fatal accidents at work, and mining remains the most hazardous occupation when the number of people involved is taken into account.<sup>16</sup> Recent major mining accidents have received considerable global focus and drawn attention to the significant risks faced by workers in the sector. Mining disasters in the past decade include: the Pasta de Conchos Mine disaster in Mexico in 2006 (which resulted in the death of 65 workers); the 2007 Shandong coal mine flood in China (which resulted in the death of 181 workers); the 2010 Upper Big Branch Mine disaster in West Virginia, United States (which resulted in the death of 29 workers); the 2010 Copiapó mining accident in Chile; the 2010 Pike River Mine disaster, in New Zealand (which resulted in the death of 29 workers); and the 2014 Soma Mine disaster, in Turkey (which resulted in the death of 301 workers). These accidents took place in coalmining, and historically underground coalmining has been one of the highest risk economic activities for workers.<sup>17</sup> In addition to unforeseen and sudden events that could result in significant disasters (including outbursts of gas, inundations, explosions, and falls of the mine roof, face and sides), workers in mining face a number of physical and airborne hazards,<sup>18</sup> and are affected by such occupational diseases as pneumoconiosis, hearing loss and the effects of vibration.<sup>19</sup> Artisanal and small-scale mining presents a particular challenge, as it is often carried out illegally or outside the scope of national or local supervision. Nearly 13 million workers worldwide are engaged in artisanal and small-scale mining, facing risks such as exposure to mercury and other chemicals, inadequate space and poor ventilation, as well as serious injury or death resulting from explosions, falling rocks or poor equipment.<sup>20</sup>

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<sup>14</sup> ILO: *Good practices and challenges in promoting decent work in construction and infrastructure projects*, Issues paper for discussion at the Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects, ILO Sectoral Policies Department (Geneva, 2015).

<sup>15</sup> ILO: *Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects* (Geneva, 19–20 November 2015), points of consensus, para. 5.

<sup>16</sup> ILO: *Mining: A hazardous work: Hazardous work resource list*, LABADMIN/OSH, 2015: see [http://www.ilo.org/safework/areasofwork/hazardous-work/WCMS\\_356567/lang--en/index.htm](http://www.ilo.org/safework/areasofwork/hazardous-work/WCMS_356567/lang--en/index.htm) [last accessed 17 Jan. 2017].

<sup>17</sup> ILO: *Code of practice on safety and health in underground coalmines*, Sectoral Activities Programme (Geneva, 2006).

<sup>18</sup> ILO: “Part XI Industries Based on Natural Resources: Health hazards of Mining and Quarrying”, *Encyclopaedia of Occupational Health and Safety*, (Geneva, 4th edition, 2011).

<sup>19</sup> ILO: *Mining: A hazardous work: Hazardous work resource list*, LABADMIN/OSH, 2015: see [http://www.ilo.org/safework/areasofwork/hazardous-work/WCMS\\_356567/lang--en/index.htm](http://www.ilo.org/safework/areasofwork/hazardous-work/WCMS_356567/lang--en/index.htm) [last accessed 17 Jan. 2017].

<sup>20</sup> ILO: *Facts on Small-Scale Mining*, ILO Fact sheet, 2003: see [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_067582.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_067582.pdf) [last accessed 17 Jan. 2017].

## Agriculture

9. Nearly one third of the world's workforce, over a billion people, are employed in the agricultural sector.<sup>21</sup> Although the share of the agricultural sector in global employment is continuing to fall, the sector remains a large source of employment, particularly in developing countries.<sup>22</sup> While employment in agriculture has globally decreased, the percentage of female employment in agriculture has grown over the last years. According to FAO estimates, the share of employment in agriculture in 2014 amounted to 30.7 per cent, compared to 35.3 per cent in 1990. However, the share of women employed in agriculture increased from 9.2 per cent in 1990 to 25.2 per cent, in 2014 (see table 1.1).<sup>23</sup>

**Table 1.1. Employment share in agriculture, female**

World	1990	2000	2014
Population, total (mln)	5 320.8	6 127.7	7 243.8
Population, rural (mln)	3 033.0	3 263.4	3 362.5
Employment in agriculture (%)	35.3	38.0	30.7
Employment in agriculture, female (%)	9.2	20.3	25.2

Source: FAO: *Statistical Pocketbook 2015: World food and agriculture* (Rome, 2015).

10. Furthermore, according to ILO estimates of child labour, more than half of children aged 5 to 17 who work do so in agriculture (58.6 per cent), in contrast to the 7.2 per cent in industry and 32.3 per cent in services, including domestic work (see figure 1.2).<sup>24</sup>

<sup>21</sup> ILO: *Decent and productive work in agriculture*, Decent work in the rural economy policy guidance notes (Geneva, 2015).

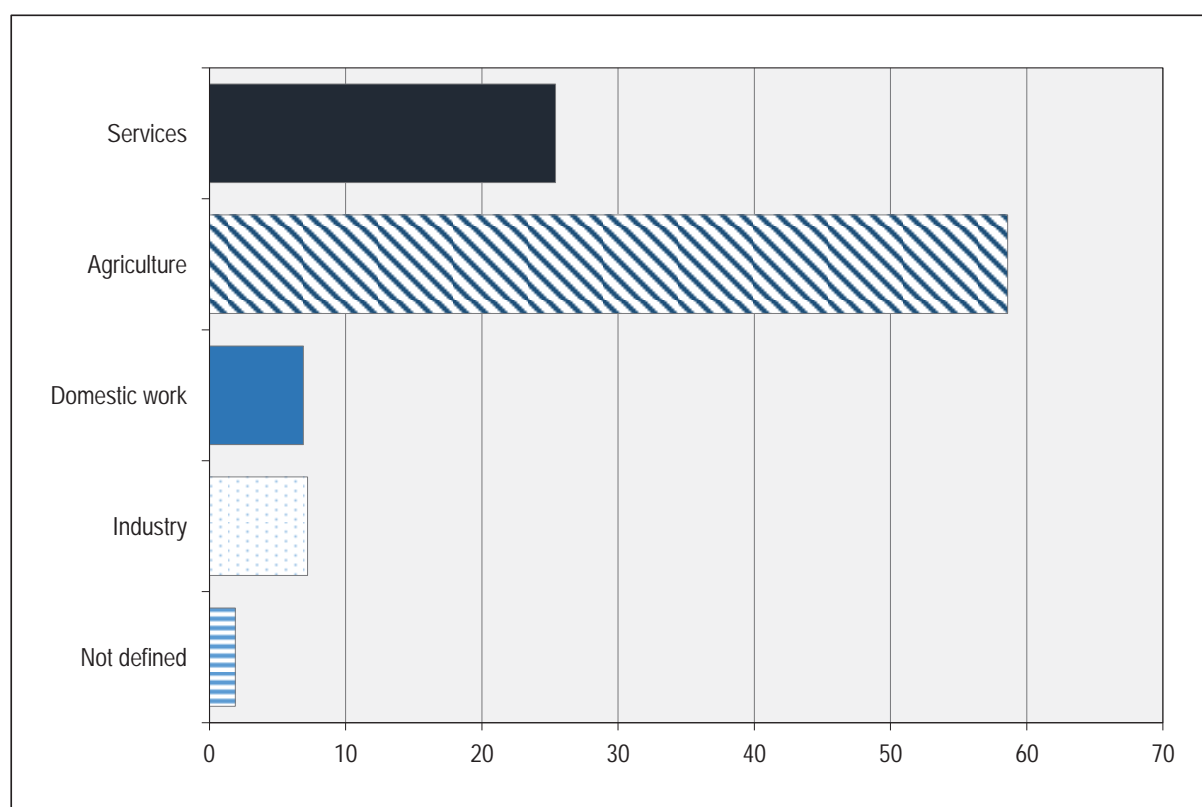
<sup>22</sup> The share of the agricultural sector in total employment has fallen from 45 per cent to 34 per cent over the past two decades, according to ILO employment trends.

<sup>23</sup> FAO: *Statistical Pocketbook 2015: World food and agriculture* (Rome, 2015), p. 48.

<sup>24</sup> ILO: *Marking progress against child labour – Global estimates and trends of child labour 2000-2012*, International Programme on the Elimination of Child Labour (IPEC) (Geneva, 2013).



**Figure 1.2. Sectoral distribution of children in child labour, 2012 (5–17 years)**



Source: ILO: *Marking progress against child labour – Global estimates and trends of child labour 2000-2012*, International Programme on the Elimination of Child Labour (IPEC) (Geneva, 2013).

11. In addition, according to ILO estimates, informal employment constitutes 82.1 per cent of total rural employment, and 98.6 per cent of agricultural employment, in rural areas. In contrast, in urban areas only 24.5 per cent of employees are in informal employment.<sup>25</sup> A sample of 42 developing countries over the period 2001 to 2008 showed that an average of 38 per cent of agricultural workers are own-account workers, while 24 per cent are contributing family workers (see table 1.2). Own-account workers and contributing family workers are often informally employed.<sup>26</sup>

**Table 1.2. Own-account workers and contributing family workers in agriculture (in percentage)**

	Employees	Employers	Own-account workers	Members of producers' cooperatives	Contributing family workers	Not classifiable
Global	30	6	38	0.52	24	2
South-East Asia	12	22	35	0	28	4
Europe and Central Asia	26	2	53	0.36	19	0
Latin America and the Caribbean	40	7	34	1	17	2
Middle East and North Africa	25	7	30	0.26	38	0
South Asia	4	1	50	0.60	45	1
Sub-Saharan Africa	44	3	23	0	24	7

Source: ILO and UNCTAD: *Shared Harvests: Agriculture, Trade and Employment* (Geneva, 2013).

<sup>25</sup> ILO: *Global employment trends 2013: Recovering from a second jobs dip* (Geneva, 2013), p. 60.

<sup>26</sup> ILO and UNCTAD: *Shared Harvests: Agriculture, Trade and Employment* (Geneva, 2013), p. 38.

12. Agricultural enterprises can take a wide range of forms, from small-scale and labour-intensive farming to large-scale highly mechanized enterprises.<sup>27</sup> Workers in the agricultural sector face numerous risk factors at work, including the use of machinery, such as tractors and harvesters, the lifting of heavy weights, and work that exposes them to musculoskeletal disorders and to pesticides and other agrochemicals. ILO reports indicate that up to 170,000 agricultural workers die at work each year, accounting for approximately half of all fatal occupational accidents.<sup>28</sup>

### 3. **Safety and health at the heart of the ILO's mandate**

13. The protection of the safety and health of workers has been a key task of the ILO since its inception in 1919. The Preamble to the ILO Constitution specifically provides that “the protection of the worker against sickness, disease and injury arising out of his employment” is a fundamental element of social justice. The obligation of the Organization to promote safe working conditions was reaffirmed in the 1944 Declaration of Philadelphia, and the 2008 Declaration on Social Justice for a Fair Globalization recognizes healthy and safe working conditions as a key element of the Decent Work Agenda.

14. Global recognition has continued to grow that OSH is an important component of sustainable development, and the 2030 Agenda for Sustainable Development, adopted in 2015, turns the spotlight on OSH. The Sustainable Development Goal (SDG) 8 of the 2030 Agenda is the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. This SDG affirms that decent work is key to achieving sustainable development and that safe and secure working conditions are a fundamental part of decent work. It includes target 8.8 on protecting labour rights and *promoting safe and secure working environments for all workers*, including migrant workers, in particular women migrants, and those in precarious employment.<sup>29</sup>

## General Survey of 2009

15. In light of the Governing Body's decision, the present General Survey builds on the content of the last General Survey on OSH (of 2009) and its conclusions, and the related discussions and conclusions of the Committee on the Application of Standards, which have served as a starting point for the Committee's work and are referenced frequently in the present General Survey.

16. The conclusions of the 2009 General Survey emphasized that the implementation of preventive and protective measures at the workplace is a continuous process that requires not only technical knowledge and skills adapted to the scale and specific activities of undertakings, but also a preventive safety and health culture.

17. The 2009 General Survey recognized that Convention No. 155, its 2002 Protocol and Recommendation No. 164 continue to be of considerable relevance and are key references in the development and strengthening of many national OSH systems, and that many

<sup>27</sup> ILO: *Code of practice on safety and health in agriculture*, Sectoral Activities Programme (Geneva, 2011).

<sup>28</sup> ILO: *Safety in numbers: Pointers for a global safety culture at work* (Geneva, 2003).

<sup>29</sup> The 2030 Agenda also highlights the importance of health generally. SDG 3 relates to ensuring healthy lives and promoting well-being for all at all ages, with target 3.9 aiming to substantially reduce the number of deaths and illnesses from hazardous chemicals, and air, water and soil pollution and contamination.

member States are making increasing efforts to give effect to the provisions of these instruments.

18. The conclusions of the Committee on the Application of Standards in 2009, following its discussion of the General Survey, recall that OSH remains a subject of fundamental importance for all parties. They emphasize that OSH is of crucial importance for the quality of work and human dignity, and that investment in workplace safety is a key factor in productivity and competitiveness. Tripartite constituents have an important role to play in promoting a preventative safety and health culture, which requires concerted action at the national and enterprise levels.<sup>30</sup> The conclusions call for an action plan on OSH, which was subsequently adopted by the Governing Body at its 307th Session (March 2010). Following these conclusions, Convention No. 155, its 2002 Protocol and Convention No. 187 were identified by the Governing Body in 2010 as the “key” OSH instruments, the promotion and implementation of which should be supported.<sup>31</sup>

#### 4. Ratifications<sup>32</sup>

19. Seventy-five member States have ratified at least one of the four Conventions examined in this General Survey.<sup>33</sup> Convention No. 187 has been ratified by 41 member States since its adoption in 2006.<sup>34</sup> Convention No. 167 (adopted in 1988) has been ratified by 30 member States, Convention No. 176 (adopted in 1995) by 31 member States and Convention No. 184 (adopted in 2001) by 16 member States. Of the member States that have ratified Convention No. 187, 22 have also ratified at least one of the sectoral Conventions reviewed in this General Survey. Thirty-four member States have ratified at least one of the sectoral OSH instruments without ratifying Convention No. 187. Only three member States (*Finland, Slovakia and Sweden*) have ratified all four of the Conventions covered by the present General Survey.<sup>35</sup>

#### 5. Outline

20. Following an overview of the historical background and objectives of the selected instruments (Chapter I), the General Survey examines national OSH policies, systems and programmes and the key role of data in this regard (Chapter II), and the role of cooperation in developing and applying OSH measures and the specific responsibilities, duties and rights of employers and workers (Chapter III). Chapter IV covers the development of a national safety and health culture and specific prevention and protection measures, while Chapter V examines measures to achieve compliance with national laws and regulations on OSH. Chapter VI covers the impact of the instruments and possible future standards-related action. The General Survey explores these topics in general terms, as well as the specific situations in the construction, mining and agriculture sectors. While most of the

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<sup>30</sup> ILO: *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, ILC, 98th Session, Geneva, 2009, para. 208

<sup>31</sup> ILO: *Improvements in the standards-related activities of the ILO: A progress report*, Governing Body, 307th Session, Geneva, March 2010, GB.307/LILS/3(Rev.), point 2.2 of Appendix I; and ILO: *Reports of the Committee on Legal Issues and International Labour Standards*, Governing Body, 307th Session, Geneva, March 2010, GB.307/10/2(Rev.), paras 1–33.

<sup>32</sup> As of 17 January 2017.

<sup>33</sup> Chapter VI of this General Survey will examine the obstacles to ratification of these Conventions that may help explain the low number of ratifications.

<sup>34</sup> The majority of which have also ratified Convention No. 155. 26 countries which have ratified Convention No. 187 have also ratified Convention No. 155 (as of January 2017).

<sup>35</sup> See Appendix V on ratification information.

Survey examines the instruments in a cross-cutting manner, focusing on common issues and themes, Chapter I examines each Convention (and its accompanying Recommendation) individually.

## Chapter I. Objectives and content of the instruments

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21. This General Survey has the particularity of examining three sectoral Conventions (Conventions Nos 167, 176 and 184) and their accompanying Recommendations in the context of a framework Convention (Convention No. 187) and its accompanying Recommendation. While the framework Convention evidently differs from the sectoral instruments in its nature and objectives, all of the instruments under examination are based on essential common principles. In particular, the eight instruments are all based on an approach to OSH centred around *social dialogue* between governments and employers' and workers' organizations, with an emphasis on the development of a *preventative safety and health culture*. The instruments also underline the importance of *cooperation* at the workplace between workers and employers on OSH issues and that the establishment of a system of defined *rights, duties and responsibilities* is essential to the creation of a safe and healthy working environment.

22. The importance of *consultation* by governments with workers' and employers' organizations on OSH in general, and on specific issues, is at the heart of the eight instruments examined and is analysed throughout the General Survey. Conventions Nos 176, 184 and 187 call for consultation on the formulation, implementation and periodic review of a national policy on OSH,<sup>1</sup> and Convention No. 167 provides that the most representative organizations of employers and workers concerned shall be consulted on the measures to be taken to give effect to that Convention.<sup>2</sup> Convention No. 187 further emphasizes the importance of consultation in the development of both a national OSH system and a national OSH programme.<sup>3</sup>

23. Another essential principle of the OSH instruments is the *prioritization of prevention*. The 2009 General Survey details the development and importance of a policy-based approach focused on prevention, which it identifies as the central organizing theme of Convention No. 155 and Recommendation No. 164.<sup>4</sup> Convention No. 187 further emphasizes the importance of developing a national preventative safety and health culture and accords the highest priority to the principle of prevention.<sup>5</sup> The aim of preventing accidents and injury to health, and the adoption of specific measures to that end, is also crucial to each of the sectoral instruments.<sup>6</sup> Key preventative measures are examined in greater detail in Chapter IV of the General Survey, including risk assessment, the need to

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<sup>1</sup> Article 3(3) of Convention No. 187; Article 3 of Convention No. 176; and Article 4 of Convention No. 184.

<sup>2</sup> Article 3 of Convention No. 167.

<sup>3</sup> Articles 4 and 5 of Convention No. 187.

<sup>4</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 4–15.

<sup>5</sup> Article 1(d) of Convention No. 187.

<sup>6</sup> Article 28 of Convention No. 167; Convention No. 176, Preamble; and Article 13 of Convention No. 184.

take OSH into account at the design stage, and in the development and dissemination of information, and in respect of education and training.

24. A national preventative safety and health culture requires the active participation of governments, employers and workers in securing a safe and healthy working environment through *a system of defined rights, responsibilities and duties*.<sup>7</sup> This principle is reflected in each of the sectoral instruments under examination, which delineate the specific roles of the government and the social partners in the respective sectors. This is further examined in Chapter III of the General Survey.

25. Arrangements to promote *cooperation on OSH at the level of the undertaking* between management, workers and their representatives are identified in Convention No. 187 as one of the four indispensable components of the national OSH system. The sectoral instruments under examination also emphasize the importance of cooperation between employers and workers in the promotion of OSH,<sup>8</sup> with two of the sectoral Conventions outlining specific measures that can be taken to encourage such cooperation.<sup>9</sup>

26. To set the stage for a cross-cutting examination of the standards selected for the General Survey, this Chapter begins with an analysis of Convention No. 187 and its accompanying Recommendation, focusing on their foundational principles, and then examines each of the sectoral instruments, together with an overview of related ILO instruments, followed by ILO codes of practice.

## 1. The Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

### Box 1.1 Ratifications of Convention No. 187

Convention No. 187 was adopted in 2006 and entered into force in 2009. The 41 countries that have ratified the Convention are: *Albania, Argentina, Austria, Bosnia and Herzegovina, Burkina Faso, Canada, Chile, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Finland, France, Germany, Indonesia, Iraq, Japan, Kazakhstan, Republic of Korea, Malaysia, Mauritius, Republic of Moldova, Montenegro, Niger, Norway, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Togo, Turkey, United Kingdom, Viet Nam and Zambia*.

### Rationale of Convention No. 187 and Recommendation No. 197

27. In 2003, the ILC held a discussion on the standards-related activities of the ILO in the area of OSH, with a view to enhancing the coherence, relevance and impact of ILO

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<sup>7</sup> Article 1(d) of Convention No. 187.

<sup>8</sup> Article 16 of Convention No. 167; Article 15 of Convention No. 176; and Article 8 of Convention No. 184.

<sup>9</sup> Paragraph 6 of Recommendation No. 175; Paragraph 31 of Recommendation No. 183.

activities.<sup>10</sup> The discussion resulted in the adoption of a Global Strategy on OSH,<sup>11</sup> which called for a new instrument establishing a promotional framework to ensure that OSH is prioritized and to foster political commitments to develop, in a tripartite context, national strategies for the improvement of OSH based on a preventative safety and health culture and a management systems approach.<sup>12</sup>

28. The ILC then held a first discussion in 2005 on the promotional framework for OSH. The preparatory report for the discussion outlined several concepts to be taken into account in the design of a new instrument, and particularly that it should be simple and easy to ratify, and contribute to the promotion of the application of up-to-date OSH instruments, while avoiding duplication with those standards.<sup>13</sup> It was considered that, while there was political commitment to tackle OSH problems, efforts to do so were often dispersed and fragmented, and as a result did not have the level of coherence necessary to have impact. It was underlined that higher priority needed to be given to OSH at the international, national and enterprise levels and to engage all social partners in initiating and sustaining mechanisms for the continued improvement of national OSH systems. Following the second discussion, the Promotional Framework for Occupational Safety and Health Convention (No. 187) and its accompanying Recommendation (No. 197), were adopted by the ILC at its 95th Session in 2006.

29. The development of these instruments represents a continuation of the preventative approach to OSH, with the aim of ensuring that priority is given to OSH on national agendas. A key goal of the Convention is to help member States ratify and implement other ILO instruments.<sup>14</sup> During the discussions, emphasis was also placed on developing a flexible instrument that would be imminently ratifiable. In this regard, the Employer spokesperson expressed the hope during the Convention's adoption that it could achieve over 100 ratifications in five years, and that its speedy ratification and implementation would save lives.<sup>15</sup> However, the Committee notes that only 41 ratifications have been registered so far.

## Overview of the content of Convention No. 187 and Recommendation No. 197

30. Convention No. 187 is based on two key aims: the development of a preventative safety and health culture and the application of a systems approach to managing OSH at the national level. The Convention incorporates these basic principles into the three foundational concepts of the instrument: (i) a national policy; (ii) a national system; and (iii) a national programme on OSH.<sup>16</sup> The Convention requires member States to promote the continuous improvement of OSH to prevent occupational injuries, diseases and deaths,

<sup>10</sup> ILO: *ILO standards-related activities in the area of occupational safety and health: An in-depth study for discussion with a view to the elaboration of a plan of action for such activities*, Report VI, ILC, 91st Session, Geneva, 2003, para. 3.

<sup>11</sup> ILO: *Global strategy on occupational safety and health: Conclusions adopted by the International Labour Conference*, ILC, 91st Session, Geneva, 2003, para. 6.

<sup>12</sup> *ibid.*

<sup>13</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 85.

<sup>14</sup> ILO: *Provisional Record No. 23*, Report of the Committee on Safety and Health: Submission, Discussion and Approval, ILC, 95th Session, Geneva, 2006, p. 23/5.

<sup>15</sup> *ibid.*, pp. 23/3–4.

<sup>16</sup> Article 2 of Convention No. 187.



through the development of these three mechanisms, in consultation with the most representative organizations of employers and workers. The Convention is organized simply around the concepts of OSH policy, system and programme, outlining the constitutive elements and important functions of each.

## Consultation on OSH

31. Dialogue with workers' and employers' organizations is at the heart of the Convention, requiring consultations with the social partners on the development and implementation of the instrument's three foundational concepts. The national policy on OSH shall be formulated in consultation with the most representative organizations of employers and workers, and its implementing infrastructure, the national system, shall also be established, maintained, progressively developed and periodically reviewed in consultation with such organizations.<sup>17</sup> The formulation, implementation, monitoring, evaluation and periodic review of the national programme on OSH must also be undertaken in consultation with the social partners,<sup>18</sup> and the Convention requires consultations on the periodic consideration of possible measures to ratify the ILO's relevant OSH Conventions.<sup>19</sup>

## System of defined rights, responsibilities and duties

32. The Convention identifies the delineation of the roles of government, employers and workers as a key aspect for the achievement of a safe and healthy working environment. It provides that a national preventative safety and health culture requires governments, employers and workers to participate actively in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties.

## Cooperation at the level of the undertaking to promote safety and health

33. While the three key concepts outlined in Convention No. 187 refer to action at the national level, the Convention also underlines the importance of cooperation at the workplace on OSH. In particular, it identifies arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures. Such measures are one of the four required elements of a national OSH system. Recommendation No. 197 further provides that Members should facilitate cooperation between employers and workers and their respective organizations with a view to eliminating or minimizing work-related hazards and risks. Members should promote, at a workplace level, the establishment of safety and health policies and joint safety and health committees and the designation of workers' OSH representatives, in accordance with national law and practice.<sup>20</sup>

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<sup>17</sup> Articles 3(3) and 4(1) of Convention No. 187.

<sup>18</sup> *ibid.*, Article 5(1). Consultations on national systems and programmes could be extended to other interested parties, pursuant to Paragraphs 2(b) and 9 of Recommendation No. 197.

<sup>19</sup> Article 2(3) of Convention No. 187.

<sup>20</sup> Paragraph 5(f) of Recommendation No. 197.

## Prevention

34. The principle of preventative action lies at the heart of Convention No. 187 and Recommendation No. 197, and the continuous improvement of OSH to prevent occupational injuries, diseases and deaths is one of their key objectives.<sup>21</sup> The development of a national preventative safety and health culture must be promoted through the national OSH policy and fostering such a culture is an important function of the national programme. Recommendation No. 197 outlines specific measures that should be taken to this end, including the active promotion of workplace prevention measures.<sup>22</sup>

## ILO instruments linked to the promotional framework<sup>23</sup>

35. Convention No. 187 outlines a coherent approach to OSH and aims to increase the impact of existing up-to-date OSH instruments.<sup>24</sup> Convention No. 187 outlines the steps to be taken towards achieving, progressively, a safe and healthy working environment by taking into account the principles set out in relevant OSH instruments,<sup>25</sup> and calls on member States to periodically consider what measures could be taken to ratify such Conventions, in consultation with the most representative organizations of employers and workers.<sup>26</sup>

36. The instruments relevant to the promotional framework for OSH are listed in the Annex to Recommendation No. 197, and include 17 Conventions, one Protocol and 21 Recommendations. This Annex may be revised by the ILO Governing Body.<sup>27</sup> The majority of these instruments focus primarily on OSH, but the Annex also includes labour inspection instruments,<sup>28</sup> and Recommendations concerning employment injury benefits,<sup>29</sup> welfare facilities and workers' housing.<sup>30</sup> Recommendation No. 197 specifically provides that the ILO should promote the implementation of these instruments, and in the case of Conventions, their ratification.<sup>31</sup>

<sup>21</sup> Article 2(1) of Convention No. 187.

<sup>22</sup> Paragraphs 5 and 10 of Recommendation No. 197.

<sup>23</sup> The ILO instruments examined in this Survey are also linked to regional instruments and initiatives. The most significant legal act of the European Union with respect to occupational safety and health is the European Framework Directive (1989/391/EEC), adopted in 1989, which establishes minimum standards and must be transposed into national legislation by EU Member States. Another regional initiative on occupational safety and health is the Andean Occupational Safety and Health Instrument (adopted through Decision 584 of the Andean Council of Ministers of Foreign Affairs, 7 May 2004) and its implementing regulations.

<sup>24</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 85.

<sup>25</sup> Article 2(2) of Convention No. 187.

<sup>26</sup> *ibid.*, Article 2(3).

<sup>27</sup> Paragraph 16 of Recommendation No. 197.

<sup>28</sup> The Labour Inspection Convention, 1947 (No. 81); the Labour Inspection Recommendation, 1947 (No. 81); the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).

<sup>29</sup> The Employment Injury Benefits Recommendation, 1964 (No. 121).

<sup>30</sup> The Welfare Facilities Recommendation, 1956 (No. 102); and the Workers' Housing Recommendation, 1961 (No. 115).

<sup>31</sup> Paragraph 15(a)(iii) of Recommendation No. 197.

37. Convention No. 187 and Convention No. 155 are closely linked and, as outlined by the Committee in its 2009 General Survey, Convention No. 187 complements Convention No. 155 and its 2002 Protocol.<sup>32</sup> The implementation of a policy focused on prevention, as defined in Convention No. 155, constitutes a blueprint for the application of a systems approach to OSH.<sup>33</sup> Convention No. 155 establishes the foundation for a preventative approach, and Convention No. 187 refers specifically to Convention No. 155 in both its preamble and with respect to national OSH policies. In particular, Convention No. 155 defines the concept of national policy and recognizes the importance of its formulation, implementation and review. Convention No. 187 builds on this concept, re-emphasizing that the policy is a key mechanism for the promotion of a safe and healthy working environment and underlining the importance of having a framework (national system) for the implementation of such a policy.

## 2. The sectoral Conventions

### The Safety and Health in Construction Convention, 1988 (No. 167)

#### **Box 1.2** **Ratifications of Convention No. 167**

Convention No. 167 was adopted in 1988, and revised the earlier Safety Provisions (Building) Convention, 1937 (No. 62). It came into force in 1991 and has since been ratified by the following 30 countries: *Albania, Algeria, Belarus, Belgium, Plurinational State of Bolivia, Brazil, China, Colombia, Czech Republic, Denmark, Dominican Republic, Finland, Gabon, Germany, Guatemala, Hungary, Iraq, Italy, Kazakhstan, Lesotho, Luxembourg, Mexico, Montenegro, Norway, Panama, Serbia, Slovakia, Sweden, Turkey and Uruguay.*

#### Rationale of Convention No. 167 and Recommendation No. 175

38. The special safety and health problems facing workers in the construction industry have been of concern to the ILO from its earliest days.<sup>34</sup> Specific instruments on the subject were adopted in 1937: the Safety Provisions (Building) Convention, 1937 (No. 62), the Safety Provisions (Building) Recommendation, 1937 (No. 53), and the Co-operation in Accident Prevention (Building) Recommendation, 1937 (No. 55).

39. Almost 50 years later, in 1985, a Meeting of Experts on Safety and Health in Construction concluded that it was necessary to revise Convention No. 62. The increasing concern for improved safety and health standards for all those engaged in the industry, the apparent omission of significant areas of the industry and processes from the scope of the Convention, as well as the need to deal not only with safety, but also occupational health, led the experts to the conclusion that a new instrument was needed. This new instrument would have taken into account the effect of new technologies, recognized the importance of occupational training, education and qualifications, strengthened employers'

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<sup>32</sup> ILO: *General Survey on occupational safety and health*, 2009, p. xii.

<sup>33</sup> *ibid.*, para. 15.

<sup>34</sup> ILO: *Provisional Record* No. 23, Report of the Committee on Safety and Health in Construction, ILC, 73rd Session, Geneva, 1987, para. 6.

responsibilities and clarified responsibilities on multi-contractor sites.<sup>35</sup> Accordingly, Convention No. 167 was developed to reflect the considerable changes in the nature and scale of operations in the construction industry.<sup>36</sup>

40. The Conference discussion leading to the adoption of Convention No. 167 highlighted the role of the construction industry as a major employer in all member States and the particular risks faced by this labour-intensive industry.<sup>37</sup> The preparatory work underlined the wide range of activities encompassed by construction and examined its specific safety and health problems, including: (a) accidents involving falls by persons and objects; (b) accidents caused by the collapse of excavations and earthworks; (c) injuries stemming from the operation of vehicles and lifting appliances; (d) special hazards associated with demolition; and (e) risks related to the exposure of workers to respirable dusts, such as asbestos and silica, and physical factors, such as noise and vibration.

41. The preparatory work also highlighted the special characteristics of the industry, and particularly: the high proportion of small firms; the variety and transient nature of worksites; the use of competitive bidding in awarding contracts; the rate of labour turnover; the number of seasonal and migrant labourers engaged in the industry; and the diversity of trades and occupations involved, which contribute to the use of subcontracting.<sup>38</sup>

42. Safety and health in construction was identified as being relevant to every member State and, while the particular risks vary, the construction industry was assessed as having a very high accident rate in all countries, resulting in needless loss of life and serious injury.

## Overview of the content of Convention No. 167 and Recommendation No. 175

43. Convention No. 167 sets out both essential general standards for OSH in construction and detailed prevention and protection measures. It defines the role of governments in that respect, as well the responsibilities of all those involved in a construction project.

## Scope of application

44. The Convention applies to all construction activities, from the preparation of the site to the completion of the project, including any process, operation or transport on a construction site,<sup>39</sup> and is not limited to construction activities of a certain scale. The Convention defines construction as covering: building, including excavation, and the construction, structural alteration, renovation, repair, maintenance and demolition of all types of buildings or structures; civil engineering; and the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site.<sup>40</sup> The Convention also applies to such self-employed persons as may be specified by national laws or regulations,<sup>41</sup> meaning that the application of the Convention to this category is subject to a determination at the national

<sup>35</sup> ILO: *Report of the Meeting of Experts on Safety and Health in Construction*, Governing Body, 231st Session, Geneva, Nov. 1985, GB.231/6/4.

<sup>36</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, Geneva, 1987, p. 3.

<sup>37</sup> ILO: *Provisional Record No. 23*, Report of the Committee on Safety and Health in Construction, ILC, 73rd Session, Geneva, 1987, p. 23/1.

<sup>38</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, Geneva, 1987.

<sup>39</sup> Article 1(1) of Convention No. 167.

<sup>40</sup> *ibid.*, Article 2(a).

<sup>41</sup> *ibid.*, Article 1(3).

level. Particular branches of economic activity, or particular undertakings in respect of which special problems of a substantial nature arise, may be excluded from the application of the Convention after consultation with the most representative organizations of employers and workers concerned, on condition that a safe and healthy working environment is maintained in excluded branches and undertakings.<sup>42</sup>

## Consultations on OSH in construction

45. Convention No. 167 calls for a series of measures to be taken to ensure that workplaces in construction are safe, and it requires at the outset that the most representative organizations of employers and workers concerned be consulted on the measures giving effect to the provisions of the Convention.<sup>43</sup>

## System of defined rights, responsibilities and duties

### *Role of governments in safety and health in construction*

46. Convention No. 167 establishes obligations for governments to regulate and monitor issues related to OSH in construction. Such measures must include the adoption of laws and regulations,<sup>44</sup> as well as all necessary measures to ensure their effective enforcement, including the provision of appropriate inspection services and of appropriate penalties and corrective measures.<sup>45</sup>

### *Duties and responsibilities of employers in safety and health in construction*

47. Employers, who under Convention No. 167 may include the principal contractor, the contractor or the subcontractor, as the context requires,<sup>46</sup> have a duty to comply with the prescribed safety and health measures, in addition to specific obligations related to: stopping operations and evacuating workers where there is an imminent danger to the safety of workers; preventing and combating fires; the provision and maintenance of personal protective equipment without cost to the workers; and ensuring the availability of first aid at all times,<sup>47</sup> including in situations where two or more employers are undertaking activities simultaneously at one construction site.<sup>48</sup> These obligations are examined in Chapter III of the General Survey.

### *Rights and duties of workers related to safety and health in the construction sector*

48. Under Convention No. 167, workers have a duty to: cooperate with their employer in the application of safety and health measures; take reasonable care with respect to their safety and health and that of others; comply with the prescribed safety and health measures; and report any situation which they believe could present a risk that they cannot properly

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<sup>42</sup> *ibid.*, Article 1(2).

<sup>43</sup> *ibid.*, Article 3.

<sup>44</sup> *ibid.*, Article 4.

<sup>45</sup> *ibid.*, Article 35.

<sup>46</sup> *ibid.*, Article 2(e)(ii).

<sup>47</sup> *ibid.*, Articles 7–8, 12(2) and 29–31.

<sup>48</sup> *ibid.*, Article 8.

deal with themselves.<sup>49</sup> They are also required to make proper use of and take good care of the personal protective equipment and protective clothing provided.<sup>50</sup>

49. Workers also have the right and duty to express their views on the working procedures adopted which affect safety and health and to participate in ensuring safe working conditions to the extent of their control over equipment and methods of work.<sup>51</sup> Workers shall be informed of potential safety and health hazards to which they may be exposed, and instructed and trained on measures for the prevention of, and protection against, such hazards.<sup>52</sup> In situations where workers have a good reason to believe that there is an imminent and serious danger to their safety or health, workers have the right to remove themselves from the danger and the duty so to inform their supervisor immediately.<sup>53</sup>

### Cooperation to promote safety and health at construction sites

50. The Convention requires that measures be taken to ensure that there is cooperation between employers and workers to promote safety and health at construction sites.<sup>54</sup> Recommendation No. 175 indicates that measures to ensure that there is organized cooperation should be prescribed by national laws or regulations or the competent authority, and provides guidance on the arrangements to be established.<sup>55</sup>

### Prevention in the construction sector

51. Convention No. 167 provides that laws or regulations which ensure the application of the Convention are to be adopted and maintained on the basis of an assessment of the safety and health hazards involved,<sup>56</sup> and with due regard to the relevant standards adopted by recognized international organizations in the field of standardization.<sup>57</sup> The Convention outlines important prevention measures relating to training and instructions for workers,<sup>58</sup> and measures to be taken at the design and planning stage of construction sites.<sup>59</sup>

52. Moreover, with respect to the prioritization of prevention, Convention No. 167 calls for appropriate preventive measures to be taken in situations where a worker may be exposed to chemical, physical or biological hazards, and particularly the replacement of hazardous substances by harmless or less hazardous substances, wherever possible, or the adoption of technical measures for plant, machinery, equipment or process.<sup>60</sup>

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<sup>49</sup> *ibid.*, Article 11.

<sup>50</sup> *ibid.*, Article 30(4).

<sup>51</sup> *ibid.*, Article 10.

<sup>52</sup> *ibid.*, Article 33.

<sup>53</sup> *ibid.*, Article 12. In this regard, see also box 3.15 and paragraph 294 of this General Survey.

<sup>54</sup> *ibid.*, Article 6.

<sup>55</sup> Paragraph 6 of Recommendation No. 175.

<sup>56</sup> Article 4 of Convention No. 167.

<sup>57</sup> *ibid.*, Article 5(2).

<sup>58</sup> *ibid.*, Articles 17(2) and 33.

<sup>59</sup> *ibid.*, Articles 9, 16(1)(a) and 17(1)(a).

<sup>60</sup> *ibid.*, Article 28.

53. With respect to health hazards, Recommendation No. 175 recommends the establishment of an information system, using the results of international scientific research, to provide information for architects, contractors, employers and workers' representatives on the health risks associated with hazardous substances used in the construction industry. It calls for the provision of product information on health risks by manufacturers and distributors of construction products, with attention being paid to informing and training workers on the safety and health implications of new products and equipment.<sup>61</sup>

### Other ILO instruments related to safety and health in construction

54. The preamble to Convention No. 167 recalls that risks in the construction sector may also be addressed through ILO standards on protection from specific hazards, including asbestos and radiation. Workers in the construction sector may be at risk of occupational exposure to asbestos, particularly those working in demolition, the disposal of contaminated debris and renovation. The Asbestos Convention, 1986 (No. 162), applies to all activities involving the exposure of workers to asbestos in the course of work, including construction.<sup>62</sup> With respect to exposure to radiation, Recommendation No. 175 contains guidance on the protection of workers engaged in the maintenance, renovation, demolition or dismantling of any buildings in which there is a risk of exposure to ionizing radiations, in particular in the nuclear power industry,<sup>63</sup> and it refers in this regard in its preamble to the Radiation Protection Convention, 1960 (No. 115), and its accompanying Recommendation. Other international labour standards particularly relevant to safety and health in the sector include those on protection against specific risks, including the Occupational Cancer Convention, 1974 (No. 139), and the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148).

## The Safety and Health in Mines Convention, 1995 (No. 176)

### **Box 1.3** **Ratifications of Convention No. 176**

Convention No. 176 was adopted in 1995 and came into force in 1998. The 31 countries that have ratified the Convention are: *Albania, Armenia, Austria, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Czech Republic, Finland, Germany, Ireland, Lebanon, Luxembourg, Mongolia, Morocco, Norway, Peru, Philippines, Poland, Portugal, Russian Federation, Slovakia, South Africa, Spain, Sweden, Turkey, Ukraine, United States, Uruguay, Zambia and Zimbabwe.*

### Rationale of Convention No. 176 and Recommendation No. 183

55. The preparatory work for Convention No. 176 identified three key reasons for its development. Firstly, existing ILO standards on mining<sup>64</sup> were no longer considered to

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<sup>61</sup> Paragraphs 41 and 44 of Recommendation No. 175.

<sup>62</sup> Article 1(1) of Convention No. 162.

<sup>63</sup> Paragraph 48 of Recommendation No. 175.

<sup>64</sup> The Underground Work (Women) Convention, 1935 (No. 45); the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46); the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82); the Minimum Age (Underground Work) Convention, 1965 (No. 123); the Minimum Age (Underground Work)

be fully applicable to hazards in the sector due, among other reasons, to the significant technological changes. Up-to-date standards addressing these deficiencies would be valuable to constituents, including sector-specific regulatory authorities.<sup>65</sup>

56. Second, work in the mining industry was considered one of the most dangerous occupations in view of the adverse effects on health of exposure to multiple hazards in mines. While mining represented a diverse industry (from small-scale mining to large operations), mines of all sizes remained complex working environments where unforeseen and sudden changes could lead to incidents resulting in a heavy loss of life. Mineworkers faced additional risks due to exposure to environmental hazards, such as dusts of silica, coal, asbestos and respirable combustible dusts, and factors including high noise levels, excessive vibration and heat or cold.<sup>66</sup>

57. Finally, the adoption of specific instruments on mining would mark the recognition of the considerable economic importance of the sector in both developed and developing countries.<sup>67</sup> All these factors led to the demand for updated standards, resulting in the adoption of Convention No. 176 and Recommendation No. 183 in 1995.

## Overview of the content of Convention No. 176 and Recommendation No. 183

58. Convention No. 176 sets out that safety and health must be a priority in the design, expansion, operation and upkeep of mines and their equipment, and establishes the roles of governments, employers and workers in that respect.

### Scope of application

59. Convention No. 176 applies to all mines, although ratifying States may exclude certain categories of mines from the application of the Convention (or from certain of its provisions) after consultations with the most representative organizations of employers and workers concerned, provided that the overall protection at such mines is not inferior to the protection that would result from the full application of the Convention.<sup>68</sup> Recommendation No. 183 makes specific reference to measures to assist small mines.<sup>69</sup>

### Consultation on OSH in mining

60. Convention No. 176 provides that the most representative organizations of employers and workers concerned shall be consulted in the formulation and periodic review of the national OSH policy in mining, and particularly regarding the measures to give effect to the provisions of the Convention.<sup>70</sup> Recommendation No. 183 indicates that such consultations should include the effect of the length of working hours, night work and shift work on workers' safety and health.<sup>71</sup>

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Recommendation, 1965 (No. 124); and the Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125).

<sup>65</sup> ILO: *Safety and health in mines*, Report V(1), ILC, 81st Session, Geneva, 1994, p. 1.

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> Article 2 of Convention No. 176.

<sup>69</sup> Paragraph 5(b) of Recommendation No. 183.

<sup>70</sup> Article 3 of Convention No. 176.

<sup>71</sup> Paragraph 3(2) of Recommendation No. 183.



## System of defined rights, responsibilities and duties

### *Role of governments in OSH in mining*

61. Under Convention No. 176, governments have the responsibility to formulate and implement a coherent policy on safety and health in mines, after consultations with the social partners, and to periodically review that policy.<sup>72</sup> Governments are also responsible for taking measures to ensure the application of the Convention through the adoption of national laws and regulations, supplemented where appropriate by other means consistent with national practice,<sup>73</sup> and the Convention outlines the subjects that must be covered by legislation.<sup>74</sup>

62. Governments are also required to: take measures to ensure the effective enforcement of the provisions of the Convention; provide appropriate inspection services; and designate a competent authority to monitor and regulate safety and health in mines, with the power to suspend or restrict mining activities on safety and health grounds.<sup>75</sup> Recommendation No. 183 adds that the competent authority should have qualified and trained staff and sufficient technical and professional support, and that measures should be taken to encourage the competent authority to provide specific assistance to small mines.<sup>76</sup>

### *Duties and responsibilities of employers in OSH in the mining sector*

63. The Convention provides that employers must take the necessary measures to eliminate or minimize the safety and health risks in mines,<sup>77</sup> and outlines the detailed responsibilities of employers related to mine safety, including in situations where two or more employers undertake activities at the same mine. These obligations are examined in Chapter III.

### *Rights and duties of workers related to OSH in the mining sector*

64. Convention No. 176 provides that workers in mines have the duty to: comply with prescribed safety and health measures and cooperate to permit compliance by employers with their OSH duties;<sup>78</sup> take reasonable care for their own safety and health and that of others;<sup>79</sup> and report forthwith any situation which they believe could present a safety and health risk with which they cannot properly deal themselves.<sup>80</sup>

65. The preamble to Convention No. 176 recalls that workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry. Accordingly, under the Convention, workers have the right to: report accidents, dangerous occurrences and hazards; request and obtain inspections and

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<sup>72</sup> Article 3 of Convention No. 176.

<sup>73</sup> *ibid.*, Article 4.

<sup>74</sup> *ibid.*, Article 5(2).

<sup>75</sup> *ibid.*, Articles 5(1), (2)(e) and 16.

<sup>76</sup> Paragraphs 4 and 5(b) of Recommendation No. 183.

<sup>77</sup> Articles 6 and 7 of Convention No. 176.

<sup>78</sup> *ibid.*, Article 14(a) and (d).

<sup>79</sup> *ibid.*, Article 14(b).

<sup>80</sup> *ibid.*, Article 14(c).

investigations; be informed of workplace hazards that may affect their safety or health and obtain relevant information; and remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health.<sup>81</sup>

66. In contrast to Convention No. 167 and Convention No. 184, Convention No. 176 provides workers with the right to collectively select safety and health representatives.<sup>82</sup> The rights of such representatives, as defined in this Convention, are examined in Chapter III. It must be ensured that the rights of workers and their representatives can be exercised without discrimination or retaliation.<sup>83</sup> Recommendation No. 183 provides additional guidance on: the information that workers and their representatives should receive or have access to;<sup>84</sup> the rights of safety and health representatives;<sup>85</sup> and the content of legislative provisions relating to the right of workers to remove themselves from danger.<sup>86</sup>

### Cooperation to promote safety and health in mines

67. The Convention requires that measures be taken to encourage cooperation between employers and workers and their representatives to promote safety and health in mines,<sup>87</sup> and Recommendation No. 183 provides guidance on the cooperative mechanisms that should be established.<sup>88</sup>

### Prevention in mining

68. The preamble to Convention No. 176 underlines the importance of preventing any fatalities, injuries or ill health affecting workers arising from mining operations. Recommendation No. 183 further guides that the competent authority should provide specific assistance to small mines with a view to establishing preventive safety and health programmes.<sup>89</sup>

69. The Convention outlines prevention measures, including the provision of training and retraining for workers,<sup>90</sup> and measures to be taken at the design stage.<sup>91</sup> Recommendation No. 183 provides guidance relating to prescribing obligations of suppliers of equipment, appliances, hazardous products and substances to mines.<sup>92</sup> With a view to keeping abreast of scientific developments, the Recommendation adds that

<sup>81</sup> *ibid.*, Article 13(1)(a)–(e). With reference to the right to removal, see also box 3.15 and paragraph 294 of this General Survey.

<sup>82</sup> *ibid.*, Article 13(1)(f).

<sup>83</sup> *ibid.*, Article 13(4).

<sup>84</sup> Paragraph 26 of Recommendation No. 183.

<sup>85</sup> *ibid.*, Paragraph 28.

<sup>86</sup> *ibid.*, Paragraph 27. With reference to the right to removal, see also box 3.15 and paragraph 294 of this General Survey.

<sup>87</sup> Article 15 of Convention No. 176.

<sup>88</sup> Paragraph 31 of Recommendation No. 183.

<sup>89</sup> Paragraph 5(b)(ii) of Recommendation No. 183.

<sup>90</sup> Article 10(a) of Convention No. 176.

<sup>91</sup> Article 7(a) of Convention No. 176.

<sup>92</sup> Paragraph 7 of Recommendation No. 183.

measures should be taken to promote research into, and exchange of information on, safety and health in mines at the national and international levels.<sup>93</sup>

70. Where workers are exposed to physical, chemical or biological hazards, employers must inform them of those hazards and the health risks involved, and take appropriate measures to eliminate or minimize the risks resulting from exposure to the hazards.<sup>94</sup> Recommendation No. 183 provides additional guidance on undertaking hazard assessments and risk analyses in order to develop and implement systems to manage risks,<sup>95</sup> and outlines the types of risks to which workers could be exposed.<sup>96</sup> The Convention requires employers to ensure the assessment and regular inspection of the working environment to identify the hazards to which workers may be exposed.<sup>97</sup> The Convention also establishes that employers shall assess risks, and it outlines the order of priority for dealing with such risks: eliminating the risk; controlling the risk at source; and minimizing the risk by means that include the design of safe work systems.<sup>98</sup>

### Other ILO instruments related to safety and health in mines

71. International labour standards particularly relevant to safety and health in the mining sector include instruments on protection against specific risks, especially the Radiation Protection Convention, 1960 (No. 115), the Occupational Cancer Convention, 1974 (No. 139), the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), the Asbestos Convention, 1986 (No. 162), the Chemicals Convention, 1990 (No. 170), and their accompanying Recommendations.<sup>99</sup>

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<sup>93</sup> *ibid.*, Paragraph 5(a).

<sup>94</sup> Article 9(a) and (b) of Convention No. 176.

<sup>95</sup> Paragraph 12 of Recommendation No. 183.

<sup>96</sup> *ibid.*, Paragraph 20.

<sup>97</sup> Article 7(e) of Convention No. 176.

<sup>98</sup> *ibid.*, Article 6.

<sup>99</sup> Prior to the adoption of Convention No. 176, several ILO instruments had been adopted on underground work and mining. These instruments, including the Underground Work (Women) Convention, 1935 (No. 45), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Minimum Age (Underground Work) Convention, 1965 (No. 123), the Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124), and the Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125), were examined by the Working Party on Policy regarding the Revision of Standards (ILO: Working Party on Policy regarding the Revision of Standards – Follow-up to the recommendation of the Working Party, Governing Body, 283rd Session, Geneva, 2002 GB.283/LILS/WP/PRS/1/2). Some of these instruments will be reviewed by the Tripartite Working Group of the Standards Review Mechanism (ILO: *The Standards Initiative: Report of the first meeting of the Standards Review Mechanism Tripartite Working Group: Report of the Officers, in accordance with paragraph 17 of the terms of reference of the Standards Review Mechanism Tripartite Working Group*, Governing Body, 326th Session, Mar. 2016, GB.326/LILS/3/2).

## The Safety and Health in Agriculture Convention, 2001 (No. 184)

### Box 1.4 Ratifications of Convention No. 184

Convention No. 184 was adopted in 2001 and came into force in 2003. It has been ratified by 16 countries: *Argentina, Belgium, Bosnia and Herzegovina, Burkina Faso, Fiji, Finland, Ghana, Kyrgyzstan, Luxembourg, Republic of Moldova, Portugal, Sao Tome and Principe, Slovakia, Sweden, Ukraine and Uruguay.*

### Rationale of Convention No. 184 and Recommendation No. 192

72. The preparatory work for Convention No. 184 emphasized the large proportion of the global labour force employed in the agricultural sector (50 per cent of the workforce at the time of its adoption), as well as its particularly hazardous nature. In several countries, the fatal accident rate in agriculture was double the overall average.<sup>100</sup> As most agricultural work took place in the open air, weather conditions contributed to difficult working conditions, in addition to risks linked to the increasing use of machinery and pesticides and other agrochemicals.<sup>101</sup>

73. The unique nature of the agricultural sector, with its particular complexities, was also cited as a key reason for the development of new instruments. The sector comprises numerous types of labour relations and different forms of labour force participation, with activities taking place in a rural environment, where there is often no clear-cut distinction between working and living conditions.<sup>102</sup> The preparatory work underlined the heterogeneity of the agricultural sector, with differing rates of productivity, ranging from large to small-scale producers, and from highly mechanized agriculture to traditional methods, with significant variety remaining between developed and developing countries.<sup>103</sup> The sector covered not only farming, but also many associated activities, such as crop processing and packaging, irrigation, pest management, grain storage, animal husbandry, construction and domestic tasks.<sup>104</sup> In light of this range, a recurrent theme during the discussions on the instruments was the importance of a flexible instrument that reflected the diversity in the sector.<sup>105</sup> Despite the central role played by agriculture in national economies and the specific risks faced by workers in the sector, which led to the adoption in 2001 of Convention No. 184 and Recommendation No. 192, the Committee notes that only 16 countries have ratified the Convention.

### Overview of the content of Convention No. 184 and Recommendation No. 192

74. Convention No. 184 is the most recent of the sectoral OSH instruments. It aims to provide agricultural workers with protections similar to other sectors. In order to reflect

<sup>100</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 3.

<sup>101</sup> *ibid.*, pp. 3–4.

<sup>102</sup> *ibid.*, p. 4.

<sup>103</sup> *ibid.*, pp. 3–4.

<sup>104</sup> *ibid.*

<sup>105</sup> ILO: *Provisional Record No. 21*, Report of the Committee on Safety and Health in Agriculture: Submission, Discussion and Adoption, ILC, 89th Session, Geneva, 2001, pp. 21/2–3 and 21/5. It should be noted that some members of the Conference Committee did not find the instrument to be particularly flexible (p. 21/6).

the diversity of the sector, the Convention permits the progressive extension of its coverage.

### Scope of application

75. Convention No. 184 applies to agriculture, defined as agricultural and forestry activities carried out in agricultural undertakings, including crop production, forestry activities, animal husbandry and insect raising, the primary processing of agricultural and animal products, and any process, storage, operation or transportation in an agricultural undertaking directly related to agricultural production.<sup>106</sup> The Convention specifically excludes from the meaning of the term “agriculture”: subsistence farming; industrial processes that use agricultural products as raw material and the related services; and the industrial exploitation of forests.<sup>107</sup>

76. The Convention contains a flexibility clause, permitting ratifying States, after consultations with the representative organizations of employers and workers concerned, to exclude certain agricultural undertakings or limited categories of workers from the application of the Convention or some of its provisions, when special problems of a substantial nature arise.<sup>108</sup> Member States have to list any such exclusions in the first report submitted on the application of the Convention, and must make plans to cover progressively all undertakings and all categories of workers.<sup>109</sup>

77. Recommendation No. 192 provides that member States should make plans to progressively extend the protection of the Convention to self-employed farmers, as appropriate, taking into consideration the views of representative organizations of such farmers.<sup>110</sup> Measures in this regard should include: the progressive extension of appropriate occupational health services for self-employed farmers; the progressive development of procedures for including self-employed farmers in the recording and notification of occupational accidents and diseases; the development of guidelines, educational programmes and materials and appropriate advice and training for self-employed farmers; and the progressive coverage of those farmers and their families by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases.<sup>111</sup>

### Consultation on OSH in the agricultural sector

78. Convention No. 184 provides that the representative organizations of employers and workers shall be consulted before the formulation, implementation and periodic review of a coherent national policy on occupational safety and health in agriculture.<sup>112</sup> In this regard, Recommendation No. 192 provides that consultations should be undertaken by the

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<sup>106</sup> Article 1 of Convention No. 184.

<sup>107</sup> *ibid.*, Article 2.

<sup>108</sup> *ibid.*, Article 3(1).

<sup>109</sup> *ibid.*, Article 3(1)–(2).

<sup>110</sup> Paragraph 12 of Recommendation No. 192. Paragraph 15 of the Recommendation provides that: “In giving effect to the above measures concerning self-employed farmers, account should be taken of the special situation of: (a) small tenants and sharecroppers; (b) small owner-operators; (c) persons participating in agricultural collective enterprises, such as members of farmers’ cooperatives; (d) members of the family as defined in accordance with national law and practice; (e) subsistence farmers; and (f) other self-employed workers in agriculture, according to national law and practice.”

<sup>111</sup> *ibid.*, Paragraphs 13–14.

<sup>112</sup> Article 4(1) of Convention No. 184.

competent authority implementing the policy, with a view to identifying problems, establishing priorities and developing methods for dealing with them.<sup>113</sup> Convention No. 184 further requires consultation in several other specific areas, including: the establishment of safety and health requirements for the handling and transport of materials in agriculture;<sup>114</sup> requirements related to the provision of adequate welfare facilities and minimum accommodation standards for agricultural workers;<sup>115</sup> and the types of agricultural work or employment considered to be hazardous for the purposes of the employment of young persons.<sup>116</sup>

## System of defined rights, responsibilities and duties

### *Role of governments in OSH in agriculture*

79. The first key task for governments, following consultations, is the formulation, implementation and periodic review of a coherent national policy on safety and health in agriculture.<sup>117</sup> National laws and regulations have to designate the competent authority responsible for the implementation of the policy and for the enforcement of OSH laws and regulations.<sup>118</sup> Recommendation No. 192 provides that the competent authority designated to implement the national policy should, after consultations: identify major problems, establish priorities for action, develop methods for dealing with the problems and periodically evaluate the results; prescribe measures for the prevention and control of occupational hazards in agriculture; and prepare guidelines for workers and employers.<sup>119</sup> The Recommendation adds that, in implementing the national policy, the competent authority should adopt provisions for the progressive extension of appropriate occupational health services for workers in agriculture; establish procedures for the recording and notification of occupational accidents and diseases in agriculture; and promote safety and health in agriculture through educational programmes and materials.<sup>120</sup> Convention No. 184 requires the adoption of national laws and regulations specifying the rights and duties of employers and workers,<sup>121</sup> and adds that, in providing for the obligations of employers, the competent authority shall take into account the size of the undertaking and the nature of its activity.<sup>122</sup>

80. Governments are also required to ensure that there is a system of inspection for agricultural workplaces, which is provided with adequate means.<sup>123</sup> National laws and regulations must also establish mechanisms for inter-sectoral coordination among relevant authorities and bodies for the agricultural sector.<sup>124</sup> Convention No. 184 also states that the competent authority shall provide for corrective measures and appropriate penalties,

<sup>113</sup> Paragraph 3(1) of Recommendation No. 192.

<sup>114</sup> Article 11 of Convention No. 184.

<sup>115</sup> *ibid.*, Article 19.

<sup>116</sup> *ibid.*, Article 16.

<sup>117</sup> *ibid.*, Article 4(1).

<sup>118</sup> *ibid.*, Article 4(2)(a).

<sup>119</sup> Paragraph 3(1) of Recommendation No. 192.

<sup>120</sup> *ibid.*, Paragraph 3(2).

<sup>121</sup> Article 4(2)(b) of Convention No. 184.

<sup>122</sup> *ibid.*, Article 7.

<sup>123</sup> *ibid.*, Article 5(1).

<sup>124</sup> *ibid.*, Article 4(2)(c).

including the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of workers, until the conditions giving rise to the suspension or restriction have been corrected, where appropriate.<sup>125</sup> The competent authority should also establish a national system for OSH surveillance, covering both workers' health and the working environment, which should include risk assessments and preventive and control measures.<sup>126</sup>

*Duties and responsibilities of employers in  
safety and health in the agricultural sector*

81. Under Convention No. 184, the employer has a duty to ensure the safety and health of workers in every aspect related to their work.<sup>127</sup> From this general duty flows specific responsibilities that are further examined in Chapter III, including obligations where two or more employers undertake activities at the same agricultural workplace.<sup>128</sup> The Convention specifically provides that employers' duties related, among others, to carrying out risk assessments and the provision of training and instructions to workers, shall be prescribed taking into account the size of the undertaking and the nature of its activity.<sup>129</sup>

*Rights and duties of workers related  
to OSH in the agricultural sector*

82. Convention No. 184 provides that workers in the agricultural sector and their representatives have a duty to comply with the prescribed safety and health measures.<sup>130</sup> The Convention also provides that workers in agriculture shall have the right: to be informed and consulted on safety and health matters; to participate in the application and review of safety and health measures; and to select safety and health representatives and representatives in safety and health committees in accordance with national law and practice.<sup>131</sup> Workers also have the right to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately.<sup>132</sup>

83. The Convention further provides that workers in agriculture shall be covered by an insurance or social security scheme against occupational injuries and diseases, as well as against invalidity and other work-related health risks, and that coverage must at least be equivalent to that enjoyed by workers in other sectors.<sup>133</sup> The hours of work, night work and rest periods for workers in the sector shall be in accordance with national laws and regulations or collective agreements.<sup>134</sup>

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<sup>125</sup> *ibid.*, Article 4(3).

<sup>126</sup> Paragraph 4 of Recommendation No. 192.

<sup>127</sup> Article 6(1) of Convention No. 184.

<sup>128</sup> *ibid.*, Article 6(2).

<sup>129</sup> *ibid.*, Article 7.

<sup>130</sup> *ibid.*, Article 8(2).

<sup>131</sup> *ibid.*, Article 8(1)(a) and (b).

<sup>132</sup> *ibid.*, Article 8(1)(c). With reference to the right to removal, see also box 3.15 and paragraph 294 of this General Survey.

<sup>133</sup> *ibid.*, Article 21.

<sup>134</sup> *ibid.*, Article 20.

## Cooperation to promote safety and health at the level of the undertaking in agriculture

84. With respect to cooperation at the level of the undertaking, Convention No. 184 provides that workers in agriculture and their representatives shall have the duty to cooperate with employers in order for the latter to comply with their own duties and responsibilities.<sup>135</sup> It further outlines that workers have the right to be informed and consulted on safety and health matters, including risks from new technologies.<sup>136</sup>

## Prevention in the agricultural sector

85. Convention No. 184 provides that the national policy on safety and health in agriculture shall have the aim of preventing occupational accidents and injury to health, by eliminating, minimizing or controlling hazards in the agricultural working environment.<sup>137</sup>

86. Under the Convention, national laws and regulations, or the competent authority, shall provide that employers carry out appropriate risk assessments in relation to the safety and health of workers. On the basis of such assessments, employers have to adopt preventive and protective measures to ensure that agricultural activities, workplaces, machinery, equipment, chemicals, tools and processes under their control are safe and comply with prescribed safety and health standards.<sup>138</sup> Recommendation No. 192 adds that measures at the level of the undertaking should include risk assessment and management measures, such as prioritizing the elimination of the risk, followed by controlling the risk at the source and subsequently minimizing it. The latter may be done through the design of safe work systems, the introduction of technical and organizational measures and safe practices, and training. The competent authority should also prescribe measures for the prevention and control of occupational hazards in agriculture. These should take account of technological progress and knowledge in the field of safety and health, as well as relevant standards, guidelines and codes of practice adopted by recognized national or international organizations<sup>139</sup> and specify the steps to be taken to prevent or control the risk of work-related endemic diseases for workers in agriculture.<sup>140</sup>

87. Recommendation No. 192 also refers to the development of preventive programmes at the level of the undertaking, emphasizing the contribution of procedures for the recording and notification of occupational accidents and diseases in that regard. Safety and health measures at that level should also include measures to ensure that the technology used is adapted to the climate, work organization and working practices,<sup>141</sup> and measures should be taken to ensure the appropriate selection or adaptation of technology, machinery and equipment, including personal protective equipment, taking into account local conditions in user countries and, in particular, ergonomic implications and the effect of climate.<sup>142</sup> The Convention and the Recommendation further outline

<sup>135</sup> *ibid.*, Article 8(2).

<sup>136</sup> *ibid.*, Article 8(1)(a).

<sup>137</sup> *ibid.*, Article 4.

<sup>138</sup> *ibid.*, Article 7(a).

<sup>139</sup> Paragraph 3(1)(b)(i) of Recommendation No. 192.

<sup>140</sup> *ibid.*, Paragraph 3(1)(b)(iii).

<sup>141</sup> *ibid.*, Paragraph 5(f).

<sup>142</sup> *ibid.*, Paragraph 6.



important prevention measures related to adequate and appropriate training and educational programmes.<sup>143</sup>

### Other ILO instruments related to OSH in agriculture

88. Recommendation No. 192 provides that certain instruments should be taken into account in giving effect to Convention No. 184. These instruments are noted in the preamble to the Convention.<sup>144</sup> These include the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and its accompanying Recommendation (No. 133), to ensure an appropriate system for inspection;<sup>145</sup> the principles of the Chemicals Convention, 1990 (No. 170), and Recommendation, 1990 (No. 177), and other relevant international technical standards with respect to the sound management of chemicals.<sup>146</sup> The Recommendation states that multinational enterprises should provide adequate safety and health protection for their workers in agriculture in all their establishments, without discrimination and regardless of the place or country in which they are situated, in accordance with the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.<sup>147</sup>

89. Convention No. 184 mirrors the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), in providing that the minimum age for assignment to hazardous agricultural work shall not be less than 18.<sup>148</sup> Lastly, both Convention No. 184 and Recommendation No. 192 have been recognized as relevant instruments to facilitate the transition from the informal to the formal economy, and are cited in the Annex to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).

## 3. ILO codes of practice and guidelines

90. ILO codes of practice, adopted by the ILO Governing Body, provide practical guidance on OSH in a number of areas. They are technical standards which provide advice on the management and control of hazards and risks associated with a particular sector or activity. The following codes of practice are valuable tools containing detailed information on safety and health measures for the sectors examined in this General Survey: the Code of practice on safety and health in construction;<sup>149</sup> the Code of practice on safety and

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<sup>143</sup> Article 7(b) of Convention No. 184, and Paragraph 3(2)(c) of Recommendation No. 192.

<sup>144</sup> In addition, the preamble to Convention No. 184 specifically notes the principles embodied in the Plantations Convention and Recommendation, 1958, the Employment Injury Benefits Convention and Recommendation, 1964, the Labour Inspection (Agriculture) Convention and Recommendation, 1969, and the Chemicals Convention and Recommendation, 1990. The Committee also noted, in its 2015 General Survey on the Right of Association (Agriculture) Convention, 1921 (No. 11), and the Rural Workers' Organisations Convention, 1975 (No. 141), the relevance of Convention No. 184 to those instruments. See ILO: *Giving a voice to rural workers, General Survey concerning the right of association and rural workers' organizations instruments, Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1B), ILC, 104th Session, Geneva, 2015, para. 42.

<sup>145</sup> Paragraph 1 of Recommendation No. 192.

<sup>146</sup> *ibid.*, Paragraph 7.

<sup>147</sup> *ibid.*, Paragraph 2. The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is also recalled in the preamble to Convention No. 184.

<sup>148</sup> Article 3(1) of Convention No. 138 provides that: "The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years". See also Articles 3 and 4 of Convention No. 182.

<sup>149</sup> ILO: *Safety and health in construction: An ILO code of practice* (Geneva, 1992).

health in underground coalmines;<sup>150</sup> the Code of practice on safety and health in opencast mines;<sup>151</sup> and the Code of practice on safety and health in agriculture.<sup>152</sup> In addition, the ILO Guidelines on occupational safety and health management systems (ILO-OSH 2001) provide detailed guidance and tools for assisting organizations, competent national institutions, employers, workers and other social partners in establishing, implementing and improving occupational safety and health management systems, with the aim of reducing work-related injuries, ill health, disease, incidents and deaths.<sup>153</sup>

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<sup>150</sup> ILO: *Code of practice on safety and health in underground coalmines*, Sectoral Activities Programme, (Geneva, 2006).

<sup>151</sup> ILO: *Safety and health in opencast mines: An ILO code of practice* (Geneva, 1991).

<sup>152</sup> ILO: *Code of practice on safety and health in agriculture*, Sectoral Activities Programme (Geneva, 2011).

<sup>153</sup> ILO: *Guidelines on occupational safety and health management systems, ILO-OSH 2001* (Geneva, 2001).

## Chapter II. Policy and legal framework

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### 1. National policies on occupational safety and health

#### Box 2.1

##### National policy on occupational safety and health

Article 1(a) of Convention No. 187 provides that:

For the purpose of this Convention:

The term **national policy** refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155); ...<sup>1</sup>

Articles 3(1) and 3(3) of Convention No. 187 provide that:

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.

...

3. In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.

<sup>1</sup> Article 4 of Convention No. 155 provides that: "Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment."

91. Convention No. 187 requires the promotion of a safe and healthy working environment through the formulation of a *national policy on OSH* in light of national conditions and practice and in consultation with the most representative organizations of employers and workers. During the preparatory work for Convention No. 187, it was emphasized that Convention No. 155 constructs a comprehensive model for an OSH policy, as outlined in Articles 4, 5, 6, 11 and 15 of that Convention, and that Convention No. 187 could build on that model.

92. As indicated in the 2009 General Survey, the term "national policy" has a specific dynamic meaning under both Convention No. 155 and Convention No. 187, referring to the process of formulating, implementing and periodically reviewing the national policy.<sup>1</sup> Convention No. 155 specifies that the aim of the national OSH policy is to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment. Convention No. 187 goes further, emphasizing that the formulation

<sup>1</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 54–59.

of a national policy shall promote several basic principles, such as: assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture.

## National policy process: Formulation and periodic review of national policies, in consultation with the social partners

93. The importance of the national policy process has been continually emphasized by the Committee in its examination of the application of both Convention No. 155 and Convention No. 187, underlining that it is not only the adoption of a policy promoting a safe and healthy working environment that is important, but also the process of its formulation, and its subsequent implementation and periodic review.

94. It is up to each country to tailor its national policy to its needs and aspirations, although national policies must aim to: (a) prevent occupational accidents and diseases in the working environment; (b) continuously improve OSH conditions; and (c) actively promote a safe and healthy working environment, the right of workers to such an environment and a preventative safety and health culture. The 2009 General Survey identified that, at that time, 94 countries had developed or intended to develop a national OSH policy.<sup>2</sup> In this respect, the Committee notes that most governments that submitted reports indicated that they have a national policy,<sup>3</sup> or that a policy is under development.<sup>4</sup> Only a few countries indicated that they have no national policy.<sup>5</sup>

95. As highlighted by the Committee in 2009, a national policy can be formalized in many different ways, depending on the national situation.<sup>6</sup> Neither Convention No. 155 nor Convention No. 187 prescribe any specific requirements as to the form of such a policy, and both Conventions provide that the national policy shall take into account “*national conditions and practice*”.<sup>7</sup> There is therefore no one-size-fits-all model for a national OSH policy, and States have considerable latitude as to the shape that this policy takes, in consultation with the representative organizations of employers and workers.

96. The form of national OSH policies accordingly varies considerably. Some countries have adopted a *consolidated policy document*. For example, in *Brazil*, the Tripartite Committee on Occupational Safety and Health (CTSST) approved the national OSH policy, based on five principles: universality; prevention; precedence of promotion,

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<sup>2</sup> *ibid.*, para. 63. In particular, it noted that 31 member States that had ratified Convention No. 155 were identified by the Committee as being compliant with the national policy obligations under that Convention, and several other countries were in the process of developing such policies. Among non-ratifying States, 25 countries reported that they had adopted a national policy, and 20 others were in the process of developing one (para. 60).

<sup>3</sup> For example, *Albania, Argentina, Bangladesh, Barbados, Belarus, Belgium, Brazil, Bulgaria, Cambodia, Colombia, Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Ethiopia, France, Germany, Greece, Guatemala, Hungary, India, Indonesia, Kenya, Latvia, Luxembourg, Malta, Mauritius, Mexico, Netherlands, New Zealand, Panama, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Singapore, South Africa, Spain, Sri Lanka, Sweden, Trinidad and Tobago, Turkey, Turkmenistan, United Kingdom, United Republic of Tanzania, Uzbekistan, Bolivarian Republic of Venezuela and Zimbabwe*.

<sup>4</sup> For example, *Antigua and Barbuda, Chile* (subsequently adopted in August 2016), *Morocco, Namibia, Pakistan* (one province), *Seychelles, Togo and Uganda*.

<sup>5</sup> *Honduras, Iceland and Panama*.

<sup>6</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 56.

<sup>7</sup> Article 4(1) of Convention No. 155, and Article 3(3) of Convention No. 187.

protection and prevention over assistance, rehabilitation and reparation; social dialogue; and comprehensiveness. This policy has been promulgated by the President in a decree, which also provides that the CTSST is responsible for its periodic review.<sup>8</sup> Some countries set out the requirement to adopt a policy in national legislation. For example, the OSH legislation of the *Republic of Moldova* provides for the development of a national policy on safety and health, in consultation with the social partners.<sup>9</sup>

97. In some countries, the national policy is not a specific document, but a *comprehensive legislative framework* accompanied by an ongoing tripartite process for its review, representing a coherent policy. For example, in *Kazakhstan*, the Labour Code outlines the general aims of the occupational safety and health policy and, pursuant to these aims, 11 specific regulatory acts on OSH have been adopted to give effect to this policy, as well as 30 additions and amendments to the national legal framework.<sup>10</sup> The Committee has also noted strategies or plans that appear to lay out broad paths for the national policy, but also contain elements of a national programme, such as specific time-bound measures for the policy's implementation.<sup>11</sup>

98. The IOE highlighted in its observations the importance of the national policy process, indicating that the continuous improvement of OSH in all sectors should be promoted by a systems approach to OSH management, including the development of a national policy, system and programmes, taking into consideration the provisions of Convention No. 187 and Recommendation No. 197.<sup>12</sup>

99. A number of workers' and employers' organizations raised several concerns regarding the formulation and implementation of a coherent national policy, which in some instances was hampered by the lack of political will. For example, the Confederation of Workers of Colombia (CTC) called for a continuous and collective process for the elaboration of a national policy on OSH in *Colombia* relating to emerging occupational safety and health needs. The Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) stressed the need to formulate a coherent and comprehensive national policy in the *Dominican Republic* to implement the OSH legislative framework. The Employers' Confederation of the Dominican Republic (COPARDOM) highlighted that there have not been progressive improvements in the *Dominican Republic* with respect to OSH, although the National Council on Occupational Safety and Health (CONSSO) has formulated a plan of action to integrate measures on occupational risk prevention into public policies. The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that, although there is a national OSH policy in *Mexico*, it is poorly regulated and has minimal follow-up, limiting its implementation. The Australian Council of Trade Unions (ACTU) indicated that the national strategy in *Australia* has too few performance targets

<sup>8</sup> *Brazil* – Committee of Experts on the Application of Conventions and Recommendations (CEACR), Convention No. 155, observation, published in 2012.

<sup>9</sup> *Republic of Moldova* – CEACR, Convention No. 155, direct request, published in 2016.

<sup>10</sup> *Kazakhstan* – CEACR, Convention No. 155, direct request, published in 2011.

<sup>11</sup> See section 3 in this Chapter on national programmes. For example, *Belgium* – CEACR, Convention No. 155, direct request, published in 2016; *Portugal* – CEACR, Convention No. 155, observation, published in 2011; *Spain* – CEACR, Convention No. 155, observation, published in 2011.

<sup>12</sup> The Committee takes due note of the IOE's request that its observations be made available online to ILO constituents. These comments can be consulted at: [http://www.ioe-emp.org/fileadmin/ioe\\_documents/publications/Policy%20Areas/international\\_labour\\_standards/EN/\\_2016-10-03\\_C-591\\_IOE\\_Comments\\_to\\_the\\_CEACR\\_General\\_Survey\\_2017\\_on\\_OSH\\_dated\\_27\\_July\\_2016.pdf](http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/international_labour_standards/EN/_2016-10-03_C-591_IOE_Comments_to_the_CEACR_General_Survey_2017_on_OSH_dated_27_July_2016.pdf).

and excludes certain sectors of the economy. The General Union of Workers (UGT) emphasized that the political situation in *Spain* has slowed the effective implementation of the national policy.

100. The periodic review of the national OSH policy, in consultation with the most representative employers' and workers' organizations concerned, is vital for ensuring an evaluation on which future action can be based. Several countries indicated that they are currently undertaking a review of their national OSH policy,<sup>13</sup> or have recently completed such a review.<sup>14</sup> Several others indicated that the policy is reviewed at specific intervals. The Governments of *Ethiopia*, *Kenya* and *Sri Lanka* indicated that the national policy must be reviewed every five years, and the Government of *Peru* reported that the national occupational safety policy is reviewed every year by the National Council on Occupational Safety and Health (CONSSAT). Emphasizing the key role of the periodic review of the OSH policy in the promotion of safety and health, the Committee has on several occasions requested specific information on the review undertaken and on specific modifications made to the national policy as a result.<sup>15</sup>

101. Numerous governments reported on the consultations undertaken during the development of the national OSH policy.<sup>16</sup> For example, the Governments of *Bahrain*, *Brazil*, *Chile*, *Costa Rica*, *Croatia*, *Czech Republic*, *Kenya*, *Hungary*, *Sri Lanka*, *Turkey*, *Uruguay* and *Zimbabwe* indicated that consultations on the national OSH policy took place through discussions by a tripartite body, while the Government of *Senegal* reported that the national policy had been discussed and endorsed in a tripartite workshop. The consultative process undertaken by the Government of *Sri Lanka* included the establishment of sectoral working groups with representation from employers' and workers' organizations from each sector. A draft policy was then developed by a tripartite National Steering Committee on the basis of the working groups' input, presented to the National Labour Advisory Council for validation at a workshop with national stakeholders and submitted to the Cabinet of Ministers for approval.

102. Certain workers' and employers' organizations also provided information on the consultations undertaken. The Canadian Labour Congress (CLC) indicated that in *Canada* trade unions and employers' organizations are involved in the tripartite federal occupational health and safety national policy discussions through the Occupational Health and Safety Advisory Committee. The CLC further added that the national policy is reviewed semi-annually through the Canadian Association of Administrators of Labour Law's standing committee on occupational safety and health, in addition to federal and provincial/territorial consultative national policy tables on occupational health and safety. Both the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU) indicated that the national policy in *Australia* is developed by Safe Work Australia, on which workers and employers are voting members and accordingly part of the decision-making process on all policy matters. The ACTU noted that unions also play a role in the implementation and review of the policy. The New Zealand Council of Trade Unions (NZCTU) indicated that it is pleased with the level of

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<sup>13</sup> For example, *Greece*, *Hungary*, *India*, *Iraq*, *South Africa* and *Sri Lanka*.

<sup>14</sup> For example, *Mauritius* and *Zimbabwe*.

<sup>15</sup> For example, *Nigeria* – CEACR, Convention No. 155, direct request, published in 2016; *Russian Federation* – CEACR, Convention No. 155, direct request, published in 2016.

<sup>16</sup> For example, *Albania*, *Antigua and Barbuda*, *Argentina*, *Bahrain*, *Barbados*, *Belarus*, *Brazil*, *Bulgaria*, *Cambodia*, *Colombia*, *Costa Rica*, *Chile*, *Croatia*, *Czech Republic*, *Ecuador*, *El Salvador*, *France*, *Greece*, *Hungary*, *Indonesia*, *Latvia*, *Mauritius*, *Namibia*, *Panama*, *Senegal*, *Spain*, *Sri Lanka*, *Togo*, *Turkey*, *United Kingdom*, *United Republic of Tanzania*, *Uruguay*, *Bolivarian Republic of Venezuela* and *Zimbabwe*.

engagement of WorkSafe New Zealand, the health and safety regulator, and that although the regulator has struggled at times to ensure meaningful consultations, it is trying to implement the principle of tripartism in most health and safety matters. The Costa Rican Federation of Chambers and Associations of Private Enterprises (UCCAEP) reported that the national Occupational Health Council, with tripartite composition, seeks to promote better working conditions through the definition, design and enactment of public policies aimed at providing workers with a decent, safe, competitive and inclusive working environment.

103. However, the Committee also notes the concerns raised by several workers' organizations concerning the frequency and breadth of the consultations on national OSH policies due to the lack of political will or in connection with a particular conjuncture. For example, the National Confederation of United Independent Unions (CONUSI) stated that there is no national OSH policy in *Panama*, emphasizing the lack of consultations in that regard. The General Union of Workers (UGT) underlined that the implementation of the national policy on OSH in *Brazil* has been neglected, as there are no longer tripartite meetings to promote the prevention of occupational accidents. The Single Confederation of Workers of Colombia (CUT) reported a lack of effective social dialogue in *Colombia* in the elaboration of the National OSH Plan, adopted in December 2014, due to the limited participation of workers' representatives in the National OSH Committee, the National Council for Occupational Risks and several OSH departmental committees, as well as in joint committees at the level of the undertaking. The General Confederation of Portuguese Workers (CGTP) noted that the economic crisis had hampered the effective implementation in practice of the national OSH policy in *Portugal*, including the paralysis of collective bargaining and social dialogue, as the participation of workers in prevention and promotional activities has been limited and the right to be informed through consultation has been reduced to bureaucratic formalities.

104. With respect to views expressed by employers' organizations, the Chamber of Production and Industry of Chile (CPC) welcomed the efforts made by the Government of *Chile* to formulate a new OSH policy, but highlighted that it had not been invited to participate in the tripartite consultations held at the regional level in this respect. The CPC stressed that the tripartite Consultative Council on OSH (CCSST) should have played a stronger role in this process. The National Confederation of Industry (CNI) emphasized the need to analyse and review the national OSH policy in light of the national economic situation in *Brazil*. The Sudanese Businessmen and Employers Federation (SBEF) indicated that, in the absence of a national consultative council in *Sudan*, no OSH policy had been developed. The Korea Employers' Federation (KEF) reported that the Government of the *Republic of Korea* needs to further strengthen communication with the interested parties, including organizations of workers and employers, when establishing OSH policy.

**105. *The Committee considers that the national policy process, with full participation of the social partners, remains the crucial engine for improving the national OSH situation and creating safe and healthy working environments. The cyclical national policy process will be indispensable for countries wishing to make progress, over the next 15 years, towards SDG target 8.8 of ensuring a safe and secure working environment for all workers. Considering the concerns raised by a number of workers' and employers' organizations, the Committee stresses that the difficulties encountered in times of economic crisis should not lead to the deterioration of the national situation concerning OSH. It emphasizes that further attention should be paid by the tripartite constituents to ensuring not only the formulation, but also the full implementation of such policies, as well as the undertaking of comprehensive reviews to allow periodic***

*adjustment in light of changing national situations and emerging technologies. The Committee recalls that member States may avail themselves of ILO technical assistance in this regard.*

## National policy on OSH in mining

### **Box 2.2** **National policy on OSH in mining**

Article 3 of Convention No. 176 provides that:

In the light of national conditions and practice and after consultations with the most representative organizations of employers and workers concerned, the Member shall formulate, carry out and periodically review a coherent policy on safety and health in mines, particularly with regard to the measures to give effect to the provisions of the Convention.

106. Like Conventions Nos 155 and 187, Convention No. 176 is centred around a dynamic policy process as an essential mechanism for achieving good safety and health in mines.

107. Among ratifying States, the Committee has noted the development in the last decade of national policies on safety and health in mines in several countries, in consultation with the social partners, including in the *Czech Republic*, *Sweden* and *Zambia*,<sup>17</sup> as well as ongoing efforts to develop such a policy in *Zimbabwe*.<sup>18</sup> Certain non-ratifying States, including *Japan* and *India*, also reported a national policy on safety and health in mining. These national policies may take different forms and can be embedded in a general national policy, as long as it contains specific principles priorities, and details for implementation concerning safety and health in mining. For example, in *Ukraine*, the Committee noted that the national OSH programme comprises a number of specific implementing measures and targets related to the mining sector, and that the mining authority reviews the OSH regulations at least once every ten years, with the participation of workers' and employers' organizations.<sup>19</sup>

108. While these national policies can take many different forms, ranging from unified written policy documents to a coherent body of legislation and implementing regulations on safety and health in mines, depending on the national situation and practice, the Committee has continually emphasized the importance of taking measures to ensure that such policies are coherent. It has further underlined the need to consult the most representative organizations of employers and workers concerned in the formulation, implementation and review of the policy.<sup>20</sup>

109. The IOE highlighted that health and safety in mines is focused on trying to move towards a zero harm industry. It added that in recent years the global mining industry has made great progress in improving health and safety performance and that one of the sustainable development principles of the industry is to seek continual improvement in health and safety performance. Notwithstanding this commitment in the global mining

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<sup>17</sup> *Czech Republic* – CEACR, Convention No. 176, direct request, published in 2011; *Sweden* – CEACR, Convention No. 176, direct request, published in 2006; *Zambia* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>18</sup> *Zimbabwe* – CEACR, Convention No. 176, direct request, published in 2015.

<sup>19</sup> *Ukraine* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>20</sup> See for example, *Albania* – CEACR, Convention No. 176, direct request, published in 2016; *Lebanon* – CEACR, Convention No. 176, direct request, published in 2015; *Ukraine* – CEACR, Convention No. 176, direct request, published in 2016.



industry to live by a culture of safety, unfortunately disasters in the mining sector continue claiming many lives.<sup>21</sup>

110. Concerning national mining policies, the General Union of Workers (UGT) in *Spain* indicated that there is no such national policy. The Single Confederation of Workers of Colombia (CUT) emphasized that the National OSH Commission on Mining has not met in *Colombia* since the end of 2014. These organizations also stressed that regulations in mining do not adequately address OSH concerns, or cover certain mining activities. In this respect, the National Employers Association of Colombia (ANDI) reported that discussions are currently being held on regulations to prevent risks in underground and open air mining. In addition, the Sudanese Businessmen and Employers Federation (SBEF) indicated that the mining sector in *Sudan* has expanded, and that further consideration of a national OSH policy in the sector is therefore necessary.

111. As a safety and health in mines policy constitutes an essential prerequisite for the implementation of the Convention, the Committee remains concerned that many of the countries that have ratified Convention No. 176 have not yet developed or implemented coherent policies.<sup>22</sup> *It urges ratifying countries that have not yet done so to embark on this process in consultation with the social partners, and to ensure that, once adopted, such policies are also coherently implemented and periodically examined. The Committee emphasizes the importance of the development and implementation of such policies for all countries with a mining sector, and encourages all such countries to undertake consultations on measures that can be taken to improve OSH in the sector.*

## National policy on OSH in agriculture

### Box 2.3 National policy on OSH in agriculture

Article 4(1) of Convention No. 184 provides that:

In the light of national conditions and practice and after consulting the representative organizations of employers and workers concerned, Members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work, by eliminating, minimizing or controlling hazards in the agricultural working environment.

112. The national policy process is also an essential element of Convention No. 184, with particular emphasis on the importance of prevention. The Convention specifically provides that national safety and health policies in agriculture must have as their purpose the prevention of accidents and injury to health, specifically through the elimination, minimization or control of hazards in the agricultural working environment.

113. This policy must be formulated in light of national conditions and practice, and the Committee has consistently underlined the key role of consultations with the social partners in its development and periodic review. For example, the Committee noted with satisfaction the tripartite process undertaken in *Uruguay*, with a built-in review mechanism. This process began with the establishment of a tripartite group for the rural

<sup>21</sup> See paragraph 8 of this General Survey.

<sup>22</sup> See, for example, *Bosnia and Herzegovina* – CEACR, Convention No. 176, direct request, published in 2013; *Lebanon* – CEACR, Convention No. 176, direct request, published in 2016; *Peru* – CEACR, Convention No. 176, observation, published in 2015; *Slovakia* – CEACR, Convention No. 176, direct request, published in 2015; *Zimbabwe* – CEACR, Convention No. 176, direct request, published in 2015.

sector to give effect to Convention No. 184, including representation from rural workers' and employers' organizations. Consultations with the group resulted in the formulation of Decree No. 321/009 of 9 July 2009 concerning safety and health in agriculture, establishing the objectives of the national policy and providing for its implementation and periodic review in conjunction with the social partners. The Decree also establishes the tripartite committee on safety and health in the rural environment (CTR), which will follow up on its application.<sup>23</sup> As noted with respect to national policies on mining, the national policy on occupational safety and health in agriculture can be a component of a broader national OSH policy, on condition that it contains specific elements and priorities relating to improving occupational safety and health in the agricultural sector. However, the Committee notes that a number of ratifying countries have not yet provided full information on the formulation of a coherent national OSH policy in agriculture, nor on the consultations undertaken in this respect.<sup>24</sup>

114. Certain employers' and workers' organizations in countries that have not ratified Convention No. 184 indicated that there is no national policy in agriculture, including the National Confederation of Industry (CNI) in *Brazil* and the Canadian Labour Congress (CLC) in *Canada*. The Single Confederation of Workers of Colombia (CUT) indicated that in *Colombia* the general national policy is not relevant to the agricultural sector due to: the higher poverty rate of the population in rural areas compared to urban areas; informality and the high number of precarious workers in the sector; and low coverage and participation of agricultural workers in the national system of social protection. In addition, the CUT and the General Workers' Union (GWU) emphasized that there is no national legislation on OSH in agriculture in *Colombia* and *Malta* respectively.

115. Certain social partners identified specific measures that need to be taken with respect to OSH in agriculture. The CLC highlighted that farm workers in *Canada* have limited occupational health and safety protections, and that agricultural injuries and fatalities are not measured in most jurisdictions, so there is no baseline upon which to gauge improvement. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) emphasized that the exclusion of family farms with ten or fewer employees from the OSH Act is problematic, as is the exclusion of agricultural workers from coverage of a number of particular standards, in light of the high rate of fatalities and workplace injuries in agriculture in the *United States*. The New Zealand Council of Trade Unions (NZCTU) expressed disappointment with the consultations on matters relating to agriculture undertaken by WorkSafe New Zealand, the health and safety regulator in *New Zealand*, because they have been limited to the consideration of unenforceable guidance material for farmers. With respect to the *Republic of Moldova*, the National Confederation of Trade Unions of Moldova (CNSM) indicated that, while there is a plan of action for the implementation of Convention No. 184, there have not been any consultations with representative organizations of employers and workers at the national or branch levels on safety and health issues in agriculture. Similarly, the Australian Council of Trade Unions (ACTU) indicated that there is a lack of OSH legislation covering agriculture in *Australia*, despite the sector recording among the highest number of work-related fatalities. In this respect, the Australian Chamber of Commerce and Industry (ACCI) indicated that there is a Safe Work Australia national agricultural activity plan outlining activities in the sector.

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<sup>23</sup> *Uruguay* – CEACR, Convention No. 184, observation, published in 2011.

<sup>24</sup> For example, *Bosnia and Herzegovina* – CEACR, Convention No. 184, direct request, published in 2013; *Fiji* – CEACR, Convention No. 184, direct request, published in 2016; and *Ukraine* – CEACR, Convention No. 184, direct request, published in 2016.

116. *The Committee recalls that the national policy process, including undertaking a review at periodic intervals in consultation with the social partners, constitutes an important mechanism for the development of tripartite solutions for accident and injury prevention that are adapted to national conditions. The Committee encourages all member States to engage in consultations on measures that can be taken with a view to preventing accidents and injuries in the agricultural sector.*

## The construction sector

### **Box 2.4** **Consultations on measures to give** **effect to Convention No. 167**

Article 3 of Convention No. 167 provides that:

The most representative organizations of employers and workers concerned shall be consulted on the measures to be taken to give effect to the provisions of this Convention.

117. Convention No. 167, as the oldest Convention covered by the present Survey, is the only Convention examined that does not include the development of a national policy on safety and health in the sector covered, and the issue does not appear to have been the subject of in-depth consideration during the preparatory work. Nonetheless, the Convention does require consultations with the representative organizations of employers and workers concerned on the measures taken to give effect to it.

118. Certain countries specifically indicated that the general national policy on occupational safety and health covers the construction sector,<sup>25</sup> while some countries have a specific OSH policy in the sector. In this respect, the Committee has noted that *Cyprus* has adopted a common policy declaration for the construction sector, aiming to reduce the rate of accidents in the sector,<sup>26</sup> and that *Chile* has an OSH plan in the construction sector, which includes specific objectives and targets.<sup>27</sup> The All-Poland Trade Unions Alliance (OPZZ) indicated that in *Poland* an arrangement for safety and health in the construction sector was signed in 2010, which aims to promote a culture of safety in the sector, raise awareness of the risks related to construction work and promote their elimination. Moreover, the Government of *Panama* reported that a law on the reduction of occupational accidents in the construction sector was adopted in 2015, establishing a tripartite commission responsible for its implementation, which is currently undertaking analyses and discussion with a view to formulating proposals.

119. Certain workers' organizations highlighted the need to examine the situation in construction with regard to OSH and to review national legislation accordingly. For example, the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Portuguese Workers (CGTP) stressed that national legislation on construction is out of date in *Colombia* and *Portugal*, respectively. Moreover, the Australian Council of Trade Unions (ACTU) indicated that there is limited consultation between OSH regulators, employers' organizations and trade unions on certain issues affecting the building and construction industry, particularly the licensing of high-risk occupations, such as riggers, scaffolders and crane operators, and that the consultations

<sup>25</sup> For example, *India*, *Senegal* and *Sri Lanka*.

<sup>26</sup> *Cyprus* – CEACR, Convention No. 155, direct request, published in 2011.

<sup>27</sup> *Chile* – CEACR, Convention No. 187, direct request, published in 2014.

undertaken by the Federal Safety Commissioner on building and construction are on an ad hoc basis in *Australia*.

120. In terms of positive developments, the Employers' Confederation of the Dominican Republic (COPARDOM) stated that in recent years, occupational safety and health in construction has improved in the *Dominican Republic* due, among other issues, to the contracts signed between local and foreign companies requiring the implementation of higher OSH standards. The Federation of the German Construction Industry (HDB) and the German Construction Federation (ZDB) indicated that in *Germany* sustainable improvements have been achieved in the field of OSH, and that the statistics of the occupational insurance association of the building sector indicate that accident rates have steadily decreased.

121. *Emphasizing the importance of social dialogue, the Committee encourages all governments to undertake consultations with the most representative organizations of employers and workers concerned on cross-sectoral and specific measures that can be taken to improve OSH in the construction sector.*

## 2. National system for OSH

### Box 2.5 National system for OSH

Article 4 of Convention No. 187 provides that:

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.
2. The national system for occupational safety and health shall include among others:
  - (a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;
  - (b) an authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;
  - (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and
  - (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.
3. The national system for occupational safety and health shall include, where appropriate:
  - (a) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;
  - (b) information and advisory services on occupational safety and health;
  - (c) the provision of occupational safety and health training;
  - (d) occupational health services in accordance with national law and practice;
  - (e) research on occupational safety and health;
  - (f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;
  - (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
  - (h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

122. A “national system” is essentially the term used to describe the infrastructure that allows for the implementation of both the national OSH policy and the national OSH

programme.<sup>28</sup> This concept underlines that certain institutions are necessary to achieve improvement in the national OSH situation, and these mechanisms are collectively referred as a “national system”. In this regard, the first report submitted to the Conference in the context of the preparatory work for Convention No. 187 stated:

For the competent authority, it is not enough just to establish OSH legislation and to make arrangements for its enforcement. While tripartite collaboration, inspection and enforcement are still vital components of any national OSH system, there is a need to develop other elements of the system covering specific functions – either within or in collaboration with key players such as labour inspectorates. ... Although national OSH systems can vary from one country to another, they should have many elements in common.<sup>29</sup>

123. Accordingly, Convention No. 187 calls for the national system to include four essential elements that remain in place over time and permit the sustainability of OSH actions: (a) legislation and collective agreements; (b) an authority (or authorities) responsible for occupational safety and health; (c) mechanisms for ensuring compliance with national laws and regulations (including labour inspection); and (d) arrangements to promote cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.<sup>30</sup>

124. In recognition of the need for such systems to be adapted to specific national situations, the Convention remains flexible on the implementation of many of the elements required. In addition to requiring the establishment of the four essential mechanisms described above, the Convention also identifies an additional eight mechanisms to be developed as appropriate. These eight important elements of the national system are: (a) a national tripartite advisory body addressing OSH issues; (b) information and advisory services; (c) occupational safety and health training; (d) occupational health services; (e) research; (f) a mechanism for the collection and analysis of data on occupational injuries and diseases; (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and (h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises (SMEs) and in the informal economy.<sup>31</sup> These provisions lead the way to a variety of good practices for promoting the continuous improvement of safety and health at work.

125. The IOE highlighted the flexibility of the Convention with respect to the national OSH system, which enables countries to tailor the implementation of the Convention to national needs. The IOE expressed the view that, while OSH regulation and institutions are very important, undue bureaucracy should be avoided for them to be effective.

126. The Committee emphasizes that the key purpose of the national system is the promotion of the continuous improvement of OSH to prevent occupational injuries, diseases and deaths, and national OSH systems should therefore be progressively developed, in consultation with the social partners.<sup>32</sup> Recommendation No. 197 provides that consultations on national systems could be extended to other interested parties,<sup>33</sup> and that such systems should provide appropriate measures for the protection of all workers of

<sup>28</sup> Article 1(b) of Convention No. 187.

<sup>29</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 48.

<sup>30</sup> Article 4(2) of Convention No. 187.

<sup>31</sup> *ibid.*, Articles 4(1) and 4(3).

<sup>32</sup> *ibid.*, Articles 2(1) and 4(1).

<sup>33</sup> Paragraph 2(b) of Recommendation No. 197.

both genders, and in particular workers in high-risk sectors, and vulnerable workers, such as those in the informal economy and migrant and young workers.<sup>34</sup>

127. Based on the responses received, the concept of a national OSH system appears not to be fully understood by some member States. Although some governments indicated that they have no “national system”, the Committee observes that all reporting countries for this General Survey referred to certain elements of a national OSH system, with significant variation in their level of development. While some governments reported having only a basic legislative framework on OSH, other governments referred to fully developed OSH systems composed of all the elements and institutions outlined in Article 4 of Convention No. 187.

128. The following paragraphs<sup>35</sup> examine the implementation of certain aspects of the national OSH system, including the required legislative framework, the designation of responsible authorities and consultations on the development and periodic review of a national OSH system. Because of their particular relevance for the sectoral instruments, other key elements, such as arrangements at the level of the undertaking and measures for ensuring compliance with national laws and regulations are examined in Chapters III and V, respectively, while the provision of OSH training and information and advisory services is examined in Chapter IV.

## OSH legislative framework and other components

### General considerations

129. One of the core elements of the national system is national OSH laws and regulations. A legislative framework acts as a key pillar for the realization of the national OSH policy, and clarifies the roles and responsibilities of employers and the duties and rights of workers. All governments replying to the questionnaire indicated that they have legislation on this subject, which takes various forms, or are in the process of developing such legislation. Certain governments also referred to constitutional provisions related to OSH,<sup>36</sup> highlighting the importance of OSH in national legal frameworks. Numerous governments indicated that they have a specific occupational safety and health act,<sup>37</sup> and others referred to specific OSH provisions in general labour legislation, normally contained in a chapter dedicated to the subject.<sup>38</sup> Governments also referred to components of legislation focusing on public health<sup>39</sup> and social security<sup>40</sup> as constituting important elements of their national OSH system. Numerous governments referred to the

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<sup>34</sup> *ibid.*, Paragraphs 3–4.

<sup>35</sup> Paragraphs 129–146.

<sup>36</sup> For example, *Algeria, Chile, Cuba, Ethiopia, Guatemala, Montenegro, Panama and Philippines.*

<sup>37</sup> For example, *Belgium, Colombia, Finland, Japan, Kenya, Mauritius, Mexico, Morocco, New Zealand, Nicaragua, Romania, Singapore, South Africa, Turkey, United Kingdom, United States and Uruguay.*

<sup>38</sup> For example, *Albania, Antigua and Barbuda, Bangladesh, Cambodia, Colombia, Cuba, Ethiopia, Panama, Russian Federation, Senegal and Togo.*

<sup>39</sup> For example, *Algeria, Azerbaijan, Bahrain, Ethiopia, Georgia and Togo.*

<sup>40</sup> For example, *Belarus, Bulgaria, Burkina Faso, Gabon, Greece, Senegal and Sweden.*

role of sector-specific OSH legislation in their national system.<sup>41</sup> In addition, the Governments of *Antigua and Barbuda* and *Zimbabwe* reported that they are in the process of developing specific legislation to regulate OSH.

130. The Convention requires the periodic review of the components of the national system in consultation with the social partners. In this respect, certain workers' organizations highlighted that national legislation should be reviewed to address specific gaps of application. For example, the Single Confederation of Workers of Colombia (CUT) stated that certain categories of workers, such as workers employed on an informal or outsourced basis, as well as teleworkers, are not specifically included within the scope of application of the policy and legislative framework in *Colombia*. The Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA) pointed out that, while domestic workers are covered by safety and health legislation in *Argentina*, self-employed workers should also be included in its scope of application. In addition, the General Union of Workers (UGT) indicated that self-employed workers in *Spain* enjoy lower protection than other categories of workers, while domestic workers are excluded from the scope of application of the general legislation on OSH. The Confederation of National Trade Unions (CSN) reported that the Committee on standards, equity and health and safety at work in Quebec, *Canada*, has discretionary power concerning the application of certain provisions of the OSH law, and that certain provisions are therefore only applied in traditionally male-dominated sectors. The CSN added that the failure to revise the list of occupational diseases since 1985 is not in conformity with the obligation under Convention No. 187 to periodically review the OSH system. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) underlined that self-employed workers are not covered by the OSH Act, which is problematic as the number of self-employed workers is growing and they have a much higher fatality rate than wage and salaried workers in the *United States*.

**131. *Given the importance of progressively developing and periodically reviewing the components of the national OSH system, the Committee encourages governments to continue to undertake consultations with the social partners on OSH legislation and regulations, with a view to addressing any exclusions or gaps in coverage identified in the legislative framework.***

## Technical standards

132. Convention No. 187 highlights that, in addition to national legislation and regulations, other OSH instruments can play a key role towards the progressive achievement of a safe and healthy working environment. In this respect, Conventions Nos 167, 176 and 184 each make reference to technical standards as an important means of implementing certain provisions.<sup>42</sup> Further, many governments reported on the role that technical standards played in their national occupational safety and health systems, including standards on general OSH issues,<sup>43</sup> as well as technical standards specifically

<sup>41</sup> For example, *Belgium, Brazil, Cambodia, Chile, Colombia, Costa Rica, Cuba, Ecuador, Ethiopia, Japan, Kenya, Mexico, Morocco, Nicaragua, Pakistan, Panama, Peru, Romania, Russian Federation, Senegal, South Africa, Sri Lanka, Turkey, United Kingdom and Zimbabwe*.

<sup>42</sup> Article 5 of Convention No. 167, Article 4 of Convention No. 176 and Article 11 of Convention No. 184.

<sup>43</sup> For example, *Brazil, Colombia, Guatemala, Kenya, Romania and United Kingdom*.

covering construction,<sup>44</sup> mining<sup>45</sup> and, to a lesser extent, agriculture.<sup>46</sup> Moreover, some countries have also used ILO codes of practice to develop national technical standards.<sup>47</sup>

## Collective agreements

133. Convention No. 187 specifically identifies collective agreements as a mechanism that, where appropriate, can be an important component of a national OSH system. It appears from the preparatory work that initial versions of the draft instrument referred only to laws and regulations as part of the OSH system. However, during the first discussion at the Conference leading to the adoption of Convention No. 187, the term “collective agreements” was added in light of indications that such agreements form an integral part of the national OSH system in several European Union Member States.<sup>48</sup> Convention No. 184 also provides that effect can be given to certain of its provisions through collective agreements.<sup>49</sup>

134. The Committee recalls that collective agreements are an important element of the national system for occupational safety and health. In this respect, many governments indicated that they often include OSH issues,<sup>50</sup> and only a few reported that OSH issues are not normally covered.<sup>51</sup> For example, the Government of *Ethiopia* indicated that most collective agreements have some OSH provisions. The Government of *Estonia* indicated that 86 per cent of collective agreements include OSH provisions, while the Government of *Chile* indicated that approximately 33 per cent of collective agreements include certain OSH provisions. The Government of *Belgium* reported that certain aspects of well-being at work are precisely regulated in collective agreements, and that the numerous agreements concluded through the National Labour Council are an important source of law in that regard. The Government noted that any provisions in such agreements contrary to higher sources of law (such as international treaties, legislation, decrees) are null.

135. In addition to governments, also a number of workers’ organizations provided information on collective agreements adopted containing OSH provisions, some of them covering particular sectors. For example, the National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that collective agreements contain precise provisions to ensure compliance with OSH in mining, including the prevention of occupational accidents and diseases, individual and collective protective equipment, and measures on ventilation, light and safety signs. The National Confederation of Trade Unions of Moldova (CNSM) indicated that the collective agreement for the agriculture and food sector in the *Republic of Moldova* contains a chapter on OSH. The American Federation of Labor and Congress of Industrial

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<sup>44</sup> For example, *Australia, Ethiopia, Finland, Iceland and Mexico*.

<sup>45</sup> For example, *Colombia and Republic of Korea*.

<sup>46</sup> For example, *Costa Rica and New Zealand*.

<sup>47</sup> For example, *Iraq and Mauritius* – CEACR, Convention No. 187, direct request, published in 2015.

<sup>48</sup> ILO: *Provisional Record* No. 18, Report of the Committee on Safety and Health, ILC, 93rd Session, Geneva, 2005, paras 161–163.

<sup>49</sup> Article 8(3) of Convention No. 184 provides that the procedures for the exercise of the rights and duties of workers shall be established by national laws and regulations, the competent authority, collective agreements or other appropriate means. Article 20 of Convention No. 184 provides that hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements.

<sup>50</sup> *Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Chile, Czech Republic, Ecuador, Estonia, Ethiopia, France, Georgia, Greece, Italy, Morocco, South Africa, Togo, Bolivarian Republic of Venezuela, Viet Nam and Zimbabwe*.

<sup>51</sup> For example, *Austria and Pakistan*.



Organizations (AFL-CIO) indicated that, at the local level, certain collective agreements provide for the establishment of safety and health committees and paid time for safety activities in the *United States*. The Australian Council of Trade Unions (ACTU) reported that building and construction unions in *Australia* negotiate detailed provisions in their collective agreements to regulate OSH matters, particularly relating to working in heat and inclement weather and on the resolution of OSH disputes.

136. Moreover, certain trade unions expressed support for the inclusion of safety and health provisions in collective agreements in the future. For example, the Swiss Federation of Trade Unions (USS/SGB) underlined that this could, to a certain extent, address the lack of legal protection in the agricultural sector in *Switzerland*. The General Union of Workers (UGT) stated that in *Spain* an Agreement for Employment and Collective Bargaining signed in 2015 with a view to orienting negotiations identifies a number of OSH measures to be considered when negotiating future collective agreements.

**137. *In light of the replies received by a number of governments and the observations of several workers' organizations, the Committee recognizes the relevance of collective agreements as an important element of the national system for occupational safety and health and their significance to the progressive development of a safer and healthier working environment.***

## Authorities responsible for OSH

138. Convention No. 187 requires that the national OSH system include an authority or body, or authorities or bodies, responsible for OSH, designated in accordance with national law and practice.<sup>52</sup> These institutions have a major role in the promotion of occupational safety and health at the national level, and in the implementation of the national OSH policy. In this respect, in the preparatory work for Convention No. 187, it was emphasized that authorities should not only be designated, but also be known to the public.<sup>53</sup>

139. In practice, many governments reported that the designated national authority is a specialized OSH agency or specific OSH department within the ministry responsible for labour.<sup>54</sup> Certain governments referred generally to the Ministry of Labour,<sup>55</sup> with some also highlighting the role of the labour inspectorate with respect to OSH.<sup>56</sup> Some countries also referred to the role played by the Ministry of Health<sup>57</sup> and national social security authorities in this regard.<sup>58</sup> ***The Committee recalls the importance of guaranteeing coordination between the various authorities with responsibilities for OSH to permit the implementation of a coherent national policy on OSH.***

<sup>52</sup> The text refers specifically to “bodies”, as during the development of the Convention, certain members of the Committee indicated that national occupational safety and health systems in European Union countries involved both designated authorities and non-public bodies. See ILO: *Provisional Record* No. 18, Report of the Committee on Safety and Health, ILC, 93rd Session, Geneva, 2005, para. 163.

<sup>53</sup> ILO: *Promotional Framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 53.

<sup>54</sup> For example, *Cuba* (department), *Finland*, *Iceland*, *Kenya*, *Mauritania*, *Panama* and *United Kingdom*.

<sup>55</sup> For example, *Brazil*, *Cambodia*, *Costa Rica*, *Ecuador*, *Republic of Korea*, *Romania*, *South Africa*, *Sri Lanka* and *Togo*.

<sup>56</sup> For example, *Republic of Korea* and *Togo*.

<sup>57</sup> For example, *Romania*, *Sri Lanka* and *Togo*.

<sup>58</sup> For example, *Belgium* and *Zimbabwe*.

## Consultations on the development and periodic review of a national OSH system

140. Consultations with the most representative organizations of employers and workers are essential not only in the establishment of a national OSH system, but in its maintenance, progressive development and periodic review. Most of the information provided by governments referred to consultations undertaken concerning the development and adoption of legislation and regulations. For example, while the Governments of *Colombia, Denmark, Greece, Hungary, Italy, Spain, Togo* and *Zimbabwe* referred to consultations undertaken generally on the OSH system, the Governments of *Bosnia and Herzegovina, Dominican Republic, Estonia, Israel, Pakistan, Russian Federation, Sri Lanka, United Kingdom* and *Bolivarian Republic of Venezuela* provided information on the consultations undertaken with the social partners on the development and review of the legislative framework. In addition, the Government of *Iceland* indicated that the board of its OSH administration, which makes proposals and advises the administration on OSH matters, includes members nominated by workers' and employers' organizations.

141. The Committee notes that a number of workers' organizations have reported that consultations in this regard could be strengthened. For example, the Georgian Trade Unions Confederation (GTUC) stated that in *Georgia* there is a lack of consultation on a number of components of the national system, including labour inspection, and that the Decree on the state programme of monitoring of labour conditions was adopted without going through the platform for tripartite social dialogue or engaging in consultations with the unions. The Canadian Labour Congress (CLC) indicated that certain legislative changes to health and safety regulations in *Canada* in federally regulated workplaces were made in 2015 without consultations with either workers' or employers' representatives, bypassing the consultative process. The Confederation of Workers of Argentina (CTA Autonomous) indicated that successive governments lacked the political will to consult with workers and employers organizations on the development of the national system. A few organizations expressed concern that the review of the national system could result in it being weakened. In this respect, the Netherlands Trade Union Confederation (FNV) indicated that the periodic review of the national system in the *Netherlands* is not focused on the protection of workers, but rather on the reduction of administrative burdens. The Australian Council of Trade Unions (ACTU) stated that there is a process under way to weaken the model workplace health and safety laws in *Australia*, which aims to modify and remove provisions that facilitate the ability of workers to be effectively represented and supported by health and safety representatives and trade unions, including the training rights of safety and health representatives.

**142. *In this connection, the Committee emphasizes that the obligation to establish and progressively develop a national OSH system in consultation with the social partners is intrinsically linked, under Article 2(1) of the Convention, to the obligation to promote the continuous improvement of OSH to prevent occupational injuries, diseases and deaths. Accordingly, such consultations must be undertaken with a view to concretely and significantly improve the national OSH situation.***

143. In relation to regular consultations on national OSH systems, numerous governments referred to consultations undertaken in a tripartite body established to discuss OSH issues. Particularly, some governments indicated that the national tripartite committee for labour issues in general also discusses OSH issues,<sup>59</sup> while many governments indicated that there is a national tripartite body dedicated to OSH issues, which is often an advisory

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<sup>59</sup> For example, *Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Cambodia, France, Romania* and *Togo*.

body<sup>60</sup> and one reported that it intends to establish such a body in the near future.<sup>61</sup> For example, the Government of *Brazil* indicated that the Tripartite Committee on OSH (CTSST) established in 2008 has six representatives each from the federal government, employers and workers. The CTSST is responsible for proposing improvements in the national OSH system by, among others: establishing the roles and mechanisms for ongoing dialogue between its members; building an integrated occupational health database; promoting the introduction of OSH management systems and programmes; restructuring training on OSH and incentives for the training and continuing education of workers; and promoting an integrated programme of study and research on OSH. The Government of the *Republic of Korea* indicated that the tripartite Economic and Social Development Commission has established the OSH Innovation Committee, which includes representatives of workers and employers, the government and OSH experts, to discuss ways of improving the OSH system.

144. Certain organizations also highlighted difficulties surrounding the establishment and functioning of tripartite advisory bodies on OSH issues. For example, the Confederation of Gabonese Free Trade Unions (CGSL) indicated that, while a tripartite technical advisory committee on OSH had been established in *Gabon*, it was no longer functioning. The Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA) reported that the OSH tripartite committee established by the Ministry of Labour does not operate on a continuous basis in *Argentina*, and the Confederation of Workers of Argentina (CTA Autonomous) emphasized that it had been excluded from participating in consultations therein. With respect to *Ukraine*, the joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that there is no permanent tripartite entity to analyse the legal and regulatory OSH framework, but that temporary working groups have been set up with tripartite representation to support the gradual development of the national OSH system.

145. The Sudanese Businessmen and Employers Federation (SBEF) indicated that, although the Labour Code requires the establishment of a national council, it has not been created, which inhibits consultation on OSH issues.

146. The value of these consultative bodies is highlighted by Convention No. 187, which identifies a national tripartite advisory body, or bodies, addressing occupational safety and health issues, as an important part of the national OSH system, as appropriate. The preparatory work for the Convention highlighted that such tripartite collaboration is a prerequisite for finding practical ways of improving working conditions and environments.<sup>62</sup> ***Recalling that consultations with the social partners are essential for the functioning of the national system, the Committee encourages governments to take the necessary measures to ensure the undertaking of genuine consultations on the establishment, maintenance, progressive development and periodic review of the system. Noting the recent establishment of tripartite bodies for the consideration of labour issues in a number of countries, the Committee highlights the potential of these***

<sup>60</sup> For example, *Algeria, Australia, Azerbaijan, Bahrain, Belgium, Brazil, Burkina Faso, Croatia, Cyprus, Czech Republic, Finland, Greece, Guatemala, Hungary, Indonesia, Republic of Korea, Mauritius, Peru, Singapore, South Africa and Zimbabwe.*

<sup>61</sup> *Ethiopia.*

<sup>62</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 49.

*institutions as a forum for consultations and the periodic review of the national OSH system.*

### 3. National programmes on OSH

**Box 2.6**  
**National programmes on OSH**

Article 5 of Convention No. 187 provides that:

1. Each Member shall formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health in consultation with the most representative organizations of employers and workers.
2. The national programme shall:
  - (a) promote the development of a national preventative safety and health culture;
  - (b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;
  - (c) be formulated and reviewed on the basis of analysis of the national situation regarding occupational safety and health, including analysis of the national system for occupational safety and health;
  - (d) include objectives, targets and indicators of progress; and
  - (e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.
3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

147. National OSH systems are operationalized through the development of *national OSH programmes*. During the preparatory work for the instruments, it was considered that a clear linkage between national OSH programmes and the national OSH system would enable the continuous improvement of national OSH performance.<sup>63</sup> It was underlined that many countries had reached a plateau in the reduction of occupational accident rates, while some countries were even experiencing an increase in occupational accidents and diseases. Strategic action to revitalize OSH efforts was therefore necessary. As significant improvements at the national level could not be made in one year, this should take the form of medium-term strategic plans, for example lasting five years, in order to ensure the sustainability of improvements and build and maintain a safety culture.<sup>64</sup> It was also highlighted that the key to achieving practical and effective strategies and plans was the involvement of the social partners and other stakeholders.<sup>65</sup>

148. Convention No. 187 therefore establishes the requirement for the formulation, implementation, monitoring, evaluation and periodic review of a national OSH programme, in consultation with the most representative organizations of workers and employers.<sup>66</sup> The national programme must be formulated and reviewed based on an analysis of the national OSH situation.<sup>67</sup> In promoting the development of a preventative

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<sup>63</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, para. 94.

<sup>64</sup> *ibid.*, paras 39 and 69.

<sup>65</sup> *ibid.*, para. 70.

<sup>66</sup> Article 5(1) of Convention No. 187.

<sup>67</sup> *ibid.*, Article 5(2)(c).

safety and health culture, national OSH programmes shall contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks.<sup>68</sup> Recommendation No. 197 adds that national programmes should identify priorities and be based on principles of assessment and management of hazards and risks, in particular at the workplace level.<sup>69</sup>

## Formulating, launching and implementing the national OSH programme

149. The Convention requires the national programme, to the extent possible, to be endorsed and launched by the highest national authorities, and to be widely publicized.<sup>70</sup> The preparatory work for the Convention stressed the importance of this aspect, as endorsement or approval by parliament or at a similar level implies a strong commitment, an assurance of financial resources during the programme period and greater visibility through increased media attention.<sup>71</sup> In this respect, the Committee has noted that the Occupational Safety and Health Master Plan for Malaysia 2010-2015 (OSH-MP 15) was launched by the Prime Minister in 2009.<sup>72</sup> In addition, the Government of *Viet Nam* indicated that the two recent national programmes on OSH (2011–15 and 2016–20) were issued by the Prime Minister in 2010 and 2016, respectively. ***The Committee recognizes the importance of high-profile support in contributing to the successful implementation of national OSH programmes and the prioritization of occupational safety and health on national agendas. It therefore encourages governments to take measures to ensure that the highest national authorities endorse the national OSH programmes developed, to the extent possible.***

150. The Committee has noted, in its examination of the implementation of Convention No. 187, the adoption of national OSH programmes by *Austria, Germany, Japan, Malaysia, Mauritius* and *Slovakia*,<sup>73</sup> as well as ongoing efforts to develop such a programme in the *Republic of Moldova*.<sup>74</sup> A significant number of both ratifying and non-ratifying States also reported, that they have adopted a national OSH programme or plan, including: *Argentina, Australia, Azerbaijan, Burkina Faso, Brazil, China, Colombia, Croatia, Czech Republic, Denmark, Estonia, France, Greece, Italy, Latvia, Lithuania, New Zealand, Pakistan* (province of Sindh), *Republic of Korea, Slovenia* and *Turkey*, or that they are developing such a programme, including *Luxembourg* and *Namibia*. Moreover, the All-Poland Trade Unions Alliance (OPZZ) reported that the social partners in *Poland* have been very involved in the development of the OSH programme for 2017–19. These programmes are generally time-bound (between five and ten years) and organized around specific national priorities. Certain governments also referred to plans

<sup>68</sup> *ibid.*, Article 5(2)(a) and (b).

<sup>69</sup> Paragraphs 7–9 of Recommendation No. 197.

<sup>70</sup> Article 5(3) of Convention No. 187.

<sup>71</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, para. 71.

<sup>72</sup> *Malaysia* – CEACR, Convention No. 187, observation, published in 2015.

<sup>73</sup> *Austria* – CEACR, Convention No. 187, direct request, published in 2014; *Germany* – CEACR, Convention No. 187, direct request, published in 2013; *Japan* – CEACR, Convention No. 187, direct request, published in 2016; *Malaysia* – CEACR, Convention No. 187, observation, published in 2015; *Mauritius* – CEACR, Convention No. 187, direct request, published in 2015; and *Slovakia* – CEACR, Convention No. 187, direct request, published in 2014.

<sup>74</sup> *Republic of Moldova* – CEACR, Convention No. 187, direct request, published in 2014.

or strategies that appear to contain both a national policy and certain time-bound measures resembling a national programme.<sup>75</sup>

151. National programmes must include objectives, targets and indicators of progress,<sup>76</sup> which facilitate both the monitoring of progress and the review of the programme. For example, the Committee has previously noted that *Japan* is in the process of implementing the 12th Industrial Accident Prevention Plan, formulated on the basis of tripartite discussions, which focuses on reducing industrial accidents, taking into account the outcome of the 11th Plan. Its target is the reduction of injuries due to occupational accidents by at least 15 per cent. With respect to the Member States of the EU, the European Strategy 2007-2012 on health and safety at work included concrete indicators (including a target of a 25 per cent reduction in the total incidence of accidents at work per 100,000 workers). Based on the findings of the evaluation of the Strategy, a new Strategic Framework on Health and Safety at Work 2014-2020 has been adopted. In particular, the evaluation of the 2007–12 strategy highlighted the need to more effectively address the impact of specific preventive actions on individual companies (especially SMEs), which is one of the issues addressed in the 2014-2020 Strategic Framework.<sup>77</sup>

152. Certain workers' and employers' organizations indicated that further measures are necessary for the formulation and implementation of national OSH programmes. For example, the General Confederation of Portuguese Workers (CGTP) recognized the potential positive impact of the adoption of the National Strategy on OSH 2015–20 in *Portugal*, but stressed that the Strategy does not focus enough on strengthening the participation rights of workers and their representatives. Coupled with the scarcity of resources available, this could hamper the strategy's effective implementation. The Confederation of Gabonese Free Trade Unions (CGSL) indicated that no national programme on OSH exists in *Gabon*. The New Zealand Council of Trade Unions (NZCTU) reported that, while the new legislative framework in *New Zealand* requires a health and safety strategy at work to be published by 2018, measures need to be taken with some urgency to develop and publish the strategy. The Chamber of Production and Industry of Chile (CPC) indicated that the national OSH system will be strengthened through the use of objectives, deadlines and indicators.<sup>78</sup>

**153. *The Committee recalls that the development of a national OSH programme is a key operational element for the promotion of a safety and health culture. Noting that much of the information provided relates only to the formulation of national programmes, the Committee emphasizes the importance of ensuring the implementation of these programmes, their monitoring and subsequent review in consultation with the***

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<sup>75</sup> See, for example, *Belgium* – CEACR, Convention No. 155, direct request, published in 2016; *Portugal* – CEACR, Convention No. 155, observation, published in 2011; *Spain* – CEACR, Convention No. 155, observation, published in 2011.

<sup>76</sup> Article 5(2)(d) of Convention No. 187.

<sup>77</sup> Challenges and key strategic objectives of the 2014-2020 Framework coincide with the main challenges identified by the Commission Working Group on the Evaluation of the OSH Framework 2007–12. See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an EU Strategic Framework on Health and Safety at Work 2014-2020, COM(2014)332 final.

<sup>78</sup> The Committee recalls in this regard that the report of the committee set up to examine the representation alleging non-observance by Chile of Convention No. 187 encouraged the Government of Chile to establish a national programme on OSH which includes objectives, targets and indicators of progress. ILO: *Report of the committee set up to examine the representation alleging non-observance by Chile of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), made under article 24 of the ILO Constitution by the College of Teachers of Chile AG, Governing Body, 326th Session, Geneva, March 2016, GB.326/INS/15/6, para. 67.*

*social partners. In this regard, it recalls the importance of evaluating past performance and of using a methodology based on clear targets and indicators of progress.*

## National OSH profile

154. Recommendation No. 197 also provides guidance on the preparation of an *occupational safety and health profile*. This should summarize the national OSH situation and serve as the basis for the formulation and review of a national programme.<sup>79</sup> In this respect, a number of governments reported the development of an OSH profile, including in *Belgium, Finland, Mauritius, Seychelles* and *Uganda*. The Government of *Seychelles* indicated that the national OSH profile, prepared in 2013, provides an overview of the national OSH situation, identifies opportunities for effective OSH management and makes recommendations on the way forward. In addition, the Government of *Vietnam* drafted two national OSH profiles, first in 2006 and then 2010, in consultation and cooperation with workers' and employers' organizations. A national tripartite team collected the necessary information and drafted the profile, following the guidance of Recommendation No. 197. The OSH profiles were linked to the development and implementation of the National OSH Programmes.

155. OSH profiles normally contain the information necessary for an appraisal of current strengths and weaknesses, including an inventory of the tools and resources available in the country to implement and manage OSH, and information on both the current OSH situation and trends, particularly in terms of occupational accidents and diseases.<sup>80</sup> The profile includes inputs from the authorities responsible for the various aspects of OSH and the most representative organizations of employers and workers.<sup>81</sup> *In this respect, the Committee highlights that the development of a national OSH profile can constitute an important capacity building opportunity through the process of collecting and analysing the necessary information for its elaboration.*

## 4. The key importance of data on occupational injuries and diseases for the development of national OSH policies, systems and programmes

### Box 2.7 Mechanisms for the collection and analysis of data on occupational injuries and diseases

Article 4(3)(f) of Convention No. 187 provides that:

3. The national system for occupational safety and health shall include, where appropriate:

...

(f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;...

<sup>79</sup> Paragraphs 13–14 of Recommendation No. 197. For example, to date, national OSH profiles have been prepared by at least 43 countries referring to Convention No. 187. The list of national OSH profiles is available at: [http://www.ilo.org/safework/areasofwork/national-occupational-safety-and-health-systems-and-programmes/WCMS\\_187981/lang--en/index.htm](http://www.ilo.org/safework/areasofwork/national-occupational-safety-and-health-systems-and-programmes/WCMS_187981/lang--en/index.htm) (last updated on 23 Feb. 2015).

<sup>80</sup> ILO: *Module 3: National OSH Profile and analysis of the national OSH situation*, ILO Training Package on Development of a National Programme of Occupational Safety and Health, Geneva, 2012, p. 3.

<sup>81</sup> *ibid.*, p. 5.

156. The national OSH policy process is dependent on access to reliable statistical data. The compilation of accurate and relevant statistics and their proper analysis is a vital means of developing and improving a coherent and effective national policy. Information on the progress achieved is also necessary for the periodic review, which is fundamental to the cyclical approach to improving OSH outcomes. Tracing progress in the implementation of the national OSH policy and measuring the impact of the measures taken to limit and reduce the number of occupational accidents and diseases necessitates the collection and analysis of data in this regard.<sup>82</sup>

157. Accordingly, Convention No. 187 identifies mechanisms for the collection and analysis of data on occupational injuries and diseases as an important component of the national OSH system.<sup>83</sup> Recommendation No. 197 further underlines that Members should seek to facilitate the exchange of OSH statistics and data among relevant authorities, employers, workers and their representatives in promoting a national preventative safety and health culture.<sup>84</sup> The importance of compiling and publishing statistics on accidents and occupational diseases is also reflected in the sectoral instruments on mining<sup>85</sup> and agriculture.<sup>86</sup> In this respect, the Committee recalls that Convention No. 155 provides for the annual publication of information on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work, and that the Protocol of 2002 to Convention No. 155 contains detailed requirements regarding the collection and publication of data. Data should be disaggregated, where possible.<sup>87</sup>

158. The Committee further recalls that the conclusions on the Conference discussion on the 2009 General Survey highlighted the numerous purposes for which accurate data can be used. The conclusions recommended that action be taken to develop systems for the recording and notification of occupational accidents and diseases to: (i) prioritize measures and economic sectors in special need of attention; (ii) measure progress and the effectiveness of occupational safety and health systems; (iii) continuously update the list of occupational diseases; and (iv) assist enterprises to prevent work-related accidents and diseases.<sup>88</sup>

159. The availability of accurate statistical information is also key to the development and implementation of a national OSH programme and should be included in the national profile summarizing the OSH situation on which the programme is based.<sup>89</sup> As highlighted in the preparatory work for Convention No. 187, timely OSH data are necessary to design effective prevention measures, as they help to identify the

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<sup>82</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 59, 133 and 134.

<sup>83</sup> Article 4(3)(f) of Convention No. 187.

<sup>84</sup> Paragraph 5(d) of Recommendation No. 197.

<sup>85</sup> Article 5(d) of Convention No. 176.

<sup>86</sup> Paragraph 3(2)(b) of Recommendation No. 192.

<sup>87</sup> The statistics of occupational accidents, occupational diseases and dangerous occurrences should be classified at least according to branch of economic activity and, as far as possible, according to: (a) significant characteristics of workers, such as status in employment, sex, age or age group; and (b) significant characteristics of the enterprise. ILO: *Recording and notification of occupational accidents and diseases. An ILO code of practice* (Geneva, 1996), para 9.1.1.

<sup>88</sup> ILO: *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, ILC, 98th Session, 2009, para. 209.

<sup>89</sup> Paragraph 14(f) of Recommendation No. 197.



interventions with the greatest chance of success.<sup>90</sup> The programme must contain objectives to be achieved, and means to assess progress,<sup>91</sup> including targets and indicators of progress. Effective data collection and analysis is vital for the formulation of both short- and long-term objectives and the setting and assessment of targets.<sup>92</sup> Moreover, as indicated in the 2006 General Survey on labour inspection, OSH data are essential to enable the labour inspectorate to carry out its preventive mandate, and particularly for the identification of high-risk activities and the most vulnerable categories of workers.<sup>93</sup>

## Sustainable Development Goal Indicators

160. The new SDG Indicators highlight the crucial importance of the collection and analysis of OSH data. The SDGs recognize that OSH is a vital component of decent work. Accordingly, for SDG target 8.8, concerning the protection of labour rights and promoting safe and secure working environments for all workers, one of the two indicators selected relates to OSH: Indicator 8.8.1 is “frequency rates of fatal and non-fatal occupational injuries, by sex and migrant status”. The indicator was selected because frequency rates of occupational injuries provide an indication of the extent to which workers are protected from work-related hazards and risks, and this information is necessary for planning preventive measures.<sup>94</sup>

161. The global indicator framework is essential to monitoring the implementation of the SDGs. The United Nations Secretary-General has been mandated to prepare an annual progress report on the SDGs to support follow-up and review at the High-level Political Forum on Sustainable Development. The report will be based on data produced by national statistical systems and information collected at the regional level. While the collection of adequate disaggregated data is essential to monitor progress, this will pose a challenge for many national statistical systems. *In this regard, the Committee draws attention to the prescriptions contained in the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, with respect to the collection and compilation of national statistics as a valuable tool in efforts to collect adequate data for indicator 8.8.1 to measure progress on the SDGs, and in particular the requirements that statistics be representative of the country as a whole and be established following classification schemes that are compatible with the latest relevant international schemes.*

## Collection, analysis and exchange of data in practice

162. The Committee recalls that the conclusions of the Conference discussion of the 2009 General Survey recommended that action be taken to collect, evaluate and disseminate statistical data on OSH. The conclusions invited all parties concerned, including

<sup>90</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 83.

<sup>91</sup> Article 1(c) of Convention No. 187.

<sup>92</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, paras 60 and 83.

<sup>93</sup> ILO: *General Survey on labour inspection*, 2006, para. 118.

<sup>94</sup> UNSTATS: *Metadata compilation for Goal 8 – Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all* (7 Mar. 2016), p. 14. Available at: <http://unstats.un.org/sdgs/files/metadata-compilation/Metadata-Goal-8.pdf> [last accessed 17 Jan. 2017].

governments, employers and workers and their organizations, public officials and labour inspectors and the ILO and its field offices, to cooperate in this regard.<sup>95</sup>

163. The Committee welcomes the fact that the large majority of countries have indicated that they have some mechanisms for the collection and publication of OSH data and have provided statistical information in this respect,<sup>96</sup> including specific information on the construction,<sup>97</sup> mining<sup>98</sup> and agriculture sectors.<sup>99</sup> Numerous governments reported that they publish this information annually,<sup>100</sup> including in the annual labour inspection report, as required by the Labour Inspection Convention, 1947 (No. 81).<sup>101</sup> For example, in *Uruguay*, employers are requested both to keep a record of occupational accidents and to transmit this accident information to the State Insurance Bank. This Bank is the entity in charge of collecting and publishing the information and it is connected online with the labour inspector and social security departments, which receive immediate notification of occupational accidents. In *Algeria*, the notifications of occupational accidents and diseases must be sent to the National Social Insurance Scheme, which keeps a record of them and sends a copy to the labour inspection department. The National Social Insurance Scheme studies the information collected and publishes a statistical analysis in its annual report. In *Latvia*, all reports on accidents at work are registered by the State Labour Inspectorate and occupational diseases are registered by the national Occupational and Radiation Medical Centre, which communicates the information to the State Labour Inspectorate. The State Labour Inspectorate is the entity in charge of collecting and analysing the data and it publishes statistical information in its annual report.

#### Difficulties in the collection, analysis and exchange of data, and measures to overcome these difficulties

164. Certain governments reported difficulties in the collection and analysis of information, indicating that OSH information is not regularly compiled,<sup>102</sup> and identifying obstacles to the exchange of such data among the various responsible authorities.<sup>103</sup> Certain governments indicated that they are taking specific measures to improve the

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<sup>95</sup> ILO: *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, ILC, 98th Session, 2009, para. 209.

<sup>96</sup> For example, *Australia, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, China, Chile, Colombia, Costa Rica, Croatia, Cyprus, Ecuador, Ethiopia, Denmark, Dominican Republic, Estonia, Georgia, Greece, Guatemala, Hungary, Iceland, Iraq, Israel, Japan, Latvia, Lithuania, Republic of Moldova, Mali, Madagascar, Mexico, Montenegro, Morocco, Myanmar, Namibia, New Zealand, Norway, Pakistan, Panama, Peru, Poland, Russian Federation, Saudi Arabia, Senegal, Singapore, Spain, Suriname, the former Yugoslav Republic of Macedonia, Tunisia, United Kingdom, Ukraine, Uruguay and Zimbabwe*.

<sup>97</sup> For example, *Australia, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Ethiopia, Georgia, Greece, Hungary, Iceland, Japan, Latvia, Lithuania, Mexico, Myanmar, Namibia, Netherlands, New Zealand, Peru, Poland, Russian Federation, Saudi Arabia, Spain and the former Yugoslav Republic of Macedonia*.

<sup>98</sup> For example, *Australia, Belarus, Belgium, Bulgaria, Chile, China, Estonia, India, Japan, Latvia, Lithuania, Mexico, Namibia, New Zealand, Peru, Russian Federation, Saudi Arabia, Spain and the former Yugoslav Republic of Macedonia*.

<sup>99</sup> For example, *Australia, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, China, Estonia, Ethiopia, Hungary, Iceland, Japan, Latvia, Lithuania, Madagascar, Mexico, Namibia, New Zealand, Norway, Peru, Poland, Saudi Arabia, Spain and the former Yugoslav Republic of Macedonia*.

<sup>100</sup> For example, *Australia, Algeria, Chile, Greece, Hungary, Israel, Latvia, Republic of Moldova, Poland, Saudi Arabia, Singapore* (biannually), *Uruguay, Viet Nam and Zimbabwe*.

<sup>101</sup> Articles 20, 21(f) and (g) of Convention No. 81. For example, *Greece, Latvia and the Republic of Moldova*.

<sup>102</sup> For example, *Honduras and Uganda*.

<sup>103</sup> For example, *Namibia*.

collection of information, including the Government of *Kenya* with respect to the development of an OSH Data Management System to facilitate the exchange of statistics, and the Government of *South Africa*, concerning the launching in 2015 of a new system to collect labour statistics from the provinces, including on occupational accidents and diseases.

165. A number of workers' organizations highlighted difficulties in relation to the collection of statistical information. The Canadian Labour Congress (CLC) indicated that the accounting of fatalities in *Canada* differs from one jurisdiction to another, with 13 different incongruent accounting systems that are not periodically reviewed or improved. The Central Organization of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) and the Finnish Confederation of Professionals (STTK) indicated that monitoring and assessment of the activities of the OSH authorities in *Finland* is made more difficult due to the lack of detailed statistical information on occupational accidents and diseases. The New Zealand Council of Trade Unions (NZCTU) indicated that there is no centralized data centre in *New Zealand* and that the Government is only able to provide a broad estimate of the number of deaths annually from occupational diseases.

166. Moreover, certain organizations highlighted that there is no up-to-date or reliable statistical information in their countries, including the National Confederation of United Independent Unions (CONUSI) and the Autonomous Confederation of Workers' Unions (CASC) in *Panama*, the National Confederation of Dominican Workers (CNTD), the National Confederation of Trade Union Unity (CNUS) in the *Dominican Republic*, and the Sudanese Businessmen and Employers Federation (SBEF) in *Sudan*.

**167. *In this respect, the Committee notes that the lack of data in many countries continues to be a significant constraining factor for improvements with respect to OSH. Recalling the fundamental importance of reliable statistical information on OSH, the Committee encourages all governments, in cooperation with workers' and employers' organizations, to pursue their efforts to strengthen the production and dissemination of OSH statistics. The Committee reminds governments that they can avail themselves of the technical assistance of the Office in this regard.***

## Construction, mining and agriculture

168. The Committee has often noted the insufficiency or absence of statistical information concerning the construction sector.<sup>104</sup> The mobile and temporary nature of certain construction sites can pose a specific obstacle in this respect. Paragraph 10 of Recommendation No. 175 provides that national laws or regulations should provide for the notification to the competent authority of construction sites of such size, duration or characteristics as may be prescribed. In this respect, the Committee has noted that databases on construction sites have been established in *Austria* and *Uruguay*, and that in *Uruguay*, labour inspectors are empowered to close down unregistered sites.<sup>105</sup>

<sup>104</sup> See for example, *Algeria* – CEACR, Convention No. 167, direct request published in 2016; *Finland* – CEACR, Convention No. 167, direct request, published in 2016; *Lesotho* – CEACR, Convention No. 167, direct request, published in 2016; *Kazakhstan* – CEACR, Convention No. 167, direct request, published in 2015; *Mexico* – CEACR, Convention No. 167, observation, published in 2015; *Slovakia* – CEACR, Convention No. 167, direct request, published in 2015.

<sup>105</sup> *Austria* – CEACR, Convention No. 81, direct request, published in 2017; *Uruguay* – CEACR, Convention No. 167, observations, published in 2010 and 2012.

169. The Committee has also noted difficulties relating to accurate statistics in the mining sector, specifically in relation to small-scale mining.<sup>106</sup> The Committee recalls that the Tripartite Meeting on Social and Labour Issues in Small-scale Mines noted the wide acknowledgement that accidents in small-scale mines are under-reported or not reported at all, as illegal operations do not wish to draw attention to themselves, and that there is frequently no compensation for injuries, reducing the likelihood of accidents being reported.<sup>107</sup>

170. In agriculture, the Committee has noted that the availability of reliable statistics in the sector remains a challenge,<sup>108</sup> but that efforts have been undertaken by a number of member States in this regard. It has noted, for example, the efforts to gather information on agricultural operations, their location and type of activity in *Albania*,<sup>109</sup> the mapping of all enterprises in *Cote d'Ivoire*,<sup>110</sup> the implementation of an electronic register (e-register) for the publication of an annual report with data disaggregated by economic activity, including agriculture in *Croatia*<sup>111</sup> and the operation of an electronic labour information system to compile data, including notifications of occupational accidents and cases of occupational disease in agriculture in *Guatemala*.<sup>112</sup>

## Mechanisms for the collection of data on occupational injuries and diseases

171. Convention No. 187 provides that mechanisms for the collection and analysis of data should take into account the relevant ILO instruments.<sup>113</sup> In this connection, Article 7 of the 2002 Protocol to Convention No. 155 provides that statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the ILO or other competent international organizations. The Committee recalls that the *Resolution concerning statistics of occupational injuries (resulting from occupational accidents)*, adopted by the Sixteenth International Conference of Labour Statisticians in 1998 includes precise operational definitions of the main concepts for statistical purposes, with classification schemes detailed in the annexes to the resolution.<sup>114</sup>

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<sup>106</sup> *Mexico* – CEACR, Convention No. 155, observation, published in 2016.

<sup>107</sup> ILO: *Report for discussion at the Tripartite Meeting on Social and Labour Issues in Small-scale Mines* (Geneva 1999), p. 13.

<sup>108</sup> See, *Albania* – CEACR, Convention No. 129, direct request, published in 2014; *Plurinational State of Bolivia* – CEACR, Convention No. 129, direct request, published in 2013; *Kenya* – CEACR, Convention No. 129, direct request, published in 2013; *Morocco* – CEACR, Convention No. 129, direct request, published in 2015.

<sup>109</sup> *Albania* – CEACR, Convention No. 129, direct request, published in 2014.

<sup>110</sup> *Cote d'Ivoire* – CEACR, Convention No. 129, observation, published in 2014.

<sup>111</sup> *Croatia* – CEACR, Convention No. 129, direct request, published in 2014.

<sup>112</sup> *Guatemala* – CEACR, Convention No. 129, direct request, published in 2015.

<sup>113</sup> In addition to data on occupational injuries and diseases, the preparatory work highlighted that useful information to analyse the national situation also includes the prevalence of hazardous work, results of working environment monitoring, health surveillance of workers and results of government inspections and investigations. Information on OSH training, such as numbers of workers, supervisors and specialists trained, is also valuable for evaluating OSH capacity at the enterprise level. ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, paras 60–62.

<sup>114</sup> Resolution concerning statistics of occupational injuries (resulting from occupational accidents), adopted by the Sixteenth International Conference of Labour Statisticians (October 1998).

172. The Committee notes that there remains enormous heterogeneity in the methods used by countries to derive statistics on occupational injuries, which hinders comparisons across countries. As noted in the 2009 General Survey, there are two main sources of national data – the reporting of accidents and diseases by employers, and compensation claims made by workers.<sup>115</sup> According to the information available (for 2010 and thereafter) in the ILO's central statistics database (ILOSTAT), the majority of countries derive this information from administrative records (approximately 80 per cent of countries for which data on occupational injuries are available), most often from labour inspectorate records or insurance records. In the remaining countries, establishment surveys or censuses, official estimates and labour force surveys are used as sources for statistics on occupational injuries. The paragraphs<sup>116</sup> below focus on the most commonly used records, including notification and information from social security institutions.

### Recording and notification

173. Systems for the recording and notification of accidents and disease were examined in detail in the 2009 General Survey in its analysis of the implementation of the Protocol of 2002 to Convention No. 155, including recording requirements and procedures, notification requirements, and the scope and coverage of these requirements.<sup>117</sup> The importance of such systems is also reflected in the sectoral instruments. Convention No. 167 requires national laws or regulations to provide for the reporting to the competent authority within a prescribed time of occupational accidents and diseases,<sup>118</sup> while Convention No. 176 requires laws and regulations to provide for procedures for reporting and investigating fatal and serious accidents, as well as dangerous occurrences and mine disasters.<sup>119</sup> With respect to agriculture, Recommendation No. 192 provides that the competent authority should establish procedures for the recording and notification of occupational accidents and diseases in that sector.<sup>120</sup>

174. In this respect, the majority of countries reported that the employer is required to notify the competent authority of occurrences of occupational accidents and diseases,<sup>121</sup> and many require the employer to keep a record of such occurrences,<sup>122</sup> consistent with the findings of the 2009 General Survey.<sup>123</sup> Some countries also indicated that employers have reporting obligations with regard to dangerous occurrences,<sup>124</sup> and the Governments of *Australia*, *Peru* and *Viet Nam* referred to specific provisions in this regard applying to the mining sector. Moreover, several countries indicated that an online notification system

<sup>115</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 135.

<sup>116</sup> Paragraphs 173–186.

<sup>117</sup> *ibid.*, Paragraphs 223–261.

<sup>118</sup> Article 34 of Convention No. 167.

<sup>119</sup> Article 5(2)(c) of Convention No. 176.

<sup>120</sup> Paragraph 3(2)(b) of Recommendation No. 192.

<sup>121</sup> For example, *Algeria, Bangladesh, Bahrain, Belarus, Bosnia and Herzegovina, Burkina Faso, Costa Rica, Cyprus, Cuba, Dominican Republic, Greece, Iceland, Iraq, Israel, Japan, Hungary, Lithuania, Mali, Madagascar, Mexico, Montenegro, Myanmar, Namibia, Netherlands, Nicaragua, Peru, Poland, Qatar, Republic of Korea, Republic of Moldova, Sudan, Suriname, the former Yugoslav Republic of Macedonia, Tunisia, Turkmenistan, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela and Viet Nam.*

<sup>122</sup> For example, *Australia, Iceland, Hungary, Mauritius, Namibia, Philippines, Poland, Russian Federation, Sri Lanka, Suriname, Uruguay and Zimbabwe.*

<sup>123</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 253.

<sup>124</sup> For example, *Australia, Mauritius, Namibia, Peru, Seychelles, South Africa, United Kingdom and Viet Nam.*

is in place, which facilitates the fulfilment of reporting obligations by employers, as well as the recording of data.<sup>125</sup> Countries require notification to different bodies, including the Ministry of Labour or the central OSH body,<sup>126</sup> the labour inspectorate (as required by Article 14 of Convention No. 81)<sup>127</sup> or the relevant social security or social insurance institution.<sup>128</sup> Some countries also specifically regulate the provision of information concerning notified accidents and diseases to workers and their representatives,<sup>129</sup> as provided for in Article 3(a)(ii) of the 2002 Protocol. A number of countries also require physicians or other health care providers to notify the competent authority of occupational accidents and diseases.<sup>130</sup>

175. Certain workers' organizations highlighted difficulties with respect to the implementation of these requirements in practice. For example, the Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) reported that employers in the *Dominican Republic* often prefer to cover the cost of medical services rather than reporting occupational accidents, which affects the recording of occupational accidents and diseases. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that the resolution concerning the recording of occupational injuries, diseases and accidents in the *Ukraine* is consistently violated, as employers regularly conceal accidents. The Canadian Labour Congress (CLC) indicated that only 60 per cent of employers in *Canada* submit the annual hazardous occurrence report form, and that employers who do not do so face no penalties. The General Union of Workers (UGT) indicated that employers in *Spain* sometimes hide the occurrence of accidents. The Single Confederation of Workers of Colombia (CUT) referred to a lack of reporting of occupational diseases in *Colombia* and indicated that workers who are not included in the system of occupational risks or by occupational accident insurance are not covered by the system for recording accidents and diseases. The New Zealand Council of Trade Unions (NZCTU) indicated that the system in *New Zealand* for notifying and recording occupational accidents and, in particular, diseases, is poor and that there is significant under-reporting. The National Confederation of United Independent Unions (CONUSI) indicated that an information system for OSH has been developed in *Panama*, but its implementation remains problematic as it relies on data from employers, which can be unreliable, and workers fear reprisals for reporting accidents.

**176. *The Committee recalls that systems for the recording and notification of accidents and diseases are instrumental to the collection of the data necessary for developing preventative action. It encourages governments, in consultation with the most representative organizations of employers and workers, to ensure that such systems are established in law and function effectively in practice. This may include undertaking an examination of the causes of under-reporting, including insufficient knowledge and***

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<sup>125</sup> For example, *Denmark, Ecuador, Mexico, Saudi Arabia, Spain, United Kingdom and Bolivarian Republic of Venezuela.*

<sup>126</sup> For example, *Costa Rica, Hungary, Iceland and Iraq.*

<sup>127</sup> For example, *Bosnia and Herzegovina, Burkina Faso, Cyprus, Greece, Iraq, Lithuania, Mali, Montenegro, Myanmar, Namibia, Qatar, Spain and Suriname.*

<sup>128</sup> For example, *Albania, Algeria, Burkina Faso, Madagascar, Tunisia and Uruguay.*

<sup>129</sup> For example, *Belarus, Uzbekistan and the Bolivarian Republic of Venezuela.*

<sup>130</sup> For example, *Denmark, Estonia, Germany, Iceland, Norway, Peru and Poland.*

***avoidance of insurance costs related to reporting, and then taking proactive measures to address the difficulties identified.***

177. The Committee notes that particular difficulties may arise in the recording and notification of occupational diseases. Limited reporting may be aggravated by the mixed causes, including the interaction of workplace and non-workplace factors, and long latency periods of many occupational diseases, such as occupational cancer, low capacity for workers' health surveillance and, in certain countries, difficulties in defining and recognizing occupational diseases.<sup>131</sup>

178. In this respect, certain organizations and governments reported specific difficulties related to the reporting of occupational diseases, and some countries described the steps taken to address these issues. For example, the Government of *Seychelles* indicated that improving the notification of occupational diseases is a key component of its OSH policy, including through the development of a list of occupational diseases and an action plan for their recording, notification and classification. The Government of the *Netherlands* reported that the notification of occupational diseases is hampered by the fact that benefits are not dependent on diseases being work-related, and that it is engaging in discussions with occupational health specialists to improve notification in this respect. The Government of *Norway* stated that, although the reporting of work-related diseases is mandatory, less than 5 per cent of physicians report work-related diseases to the labour inspectorate, and that the figures for work-related diseases may therefore not be representative.

179. The Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA) reported that there is no system for updating the list of occupational diseases in *Argentina*, and the Confederation of Workers of Argentina (CTA Autonomous) indicated that the existing list excludes a considerable number of occupational diseases. The New Zealand Council of Trade Unions (NZCTU) indicated that in *New Zealand* occupational diseases are sometimes misclassified as having non-occupational causes. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicate that the relatively low number of registered occupational diseases in *Ukraine* reflects the lack of interest of employers in conducting medical examinations of employees and identifying occupational diseases. These observations also highlight that workers sometimes evade medical examinations that may reveal an occupational illness for fear of losing their job. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) underlined that, while employers are supposed to record work-related illnesses, the record-keeping system does a very poor job of capturing occupational illnesses, particularly those that are chronic in nature. The union added that there is no uniform national requirement for occupational disease reporting.

***180. The Committee recalls the important preventive function of the recording and notification of cases of occupational disease, as well as suspected occupational diseases, as an early warning system to prevent future exposure to risks.***<sup>132</sup> ***It recalls in this respect the useful guidance contained in the Recommendation concerning the List of***

<sup>131</sup> ILO: *Prevention of occupational diseases*, Governing Body, 317th Session, March 2013, GB.317/POL/3, para. 13.

<sup>132</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 232.

***Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases, 2002 (No. 194).*** <sup>133</sup>

**Collaboration with insurance or social security schemes**

181. Convention No. 187 emphasizes that collaboration with insurance or social security schemes is an important component of the national OSH system. <sup>134</sup> This is particularly relevant for the collection and compilation of accurate statistics on occupational injuries and diseases. The preparatory work for Convention No. 187 stressed the importance of fully utilizing the accident and disease data available from social security schemes for prevention purposes. When the national coverage of such schemes is high, the total number of accidents and diseases registered is usually much higher than those reported to the authorities based on the requirements of OSH legislation. <sup>135</sup> Accordingly, data collected by the social security or accident insurance institutions could provide a better basis for analysing the national OSH situation. <sup>136</sup>

182. In this regard, many countries indicated that accident insurance or social security institutions are a source of data for occupational accidents and diseases, either as a primary source or in addition to the notifications made by employers. <sup>137</sup> Certain governments highlighted the worth of this information, including the Government of *Namibia* that reported that the statistical information from the Social Security Commission related to workers' compensation normally reveals a higher accident rate than that reported by other authorities.

183. However, there remains a risk of accidents being under-reported if many workers do not apply for compensation, or are not covered by the relevant scheme, or if the accident is covered in practice by the general social security scheme. In this regard, the New Zealand Council of Trade Unions (NZCTU) indicated that accidents are under-reported in *New Zealand*, as many farmers suffering from an occupational injury do not make a claim to the accident compensation corporation. The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that only accidents and diseases occurring to workers affiliated to the Mexican Institute of Social Security (IMSS) are officially recorded, representing only 30 per cent of the economically active population. The Canadian Labour Congress (CLC) underlined that provincial and territorial injury and fatality statistics in *Canada* are based on data maintained by workers' compensation boards, and that the resulting statistics do not therefore quantify the total number of injuries and fatalities, but only the number of individuals receiving workers' compensation for injury or fatality.

184. Moreover, certain organizations highlighted the lack of coordination between social security bodies and other authorities. The Sudanese Businessmen and Employers Federation (SBEF) reported a lack of collation of information held by different institutions in *Sudan*, including social security bodies. The National Confederation of United

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<sup>133</sup> In this respect, the following is a relevant ILO tool: ILO: *Practical guide on national systems for recording and notification of occupational disease* (Geneva, 2013).

<sup>134</sup> Article 4(3) of Convention No. 187.

<sup>135</sup> In many countries, social security institutions also provide medical and cash benefits to victims of occupational injuries or diseases who themselves declare the accident and apply for benefits even if they are not compulsorily insured by their employer.

<sup>136</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 67.

<sup>137</sup> For example, *Cambodia, Bulgaria, Croatia, Chile, Ecuador, Finland, Iceland, Israel, Republic of Korea, Malta, New Zealand, Poland, Russian Federation, Senegal, South Africa, Sri Lanka, Uruguay and Zimbabwe*.



Independent Unions (CONUSI) emphasized that there is no coordination between the Social Security Fund and the Ministry of Labour in *Panama*, which hinders the production of statistics.

185. The Committee recalls that, even though the coverage may be limited in certain countries, employment injury compensation schemes by their nature have a reasonably high rate of reporting. Moreover, as noted in the 2009 General Survey, while insurance schemes tend to provide more accurate data, their analysis of OSH aspects may be limited if there is insufficient collaboration with OSH authorities.<sup>138</sup> Consequently, effectively coordinating the exchange of information between social security and OSH institutions has great potential to contribute to prevention through increased knowledge about occupational injuries while at the same time ensuring the protection of the victims of such accidents or diseases.

***186. The Committee encourages governments to improve the system of notification of occupational accidents and diseases and to strengthen collaboration between insurance and social security schemes on the one hand, and the authorities responsible for OSH on the other hand, including with respect to the collection and compilation of accurate and comprehensive statistical information on occupational accidents and diseases.***

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<sup>138</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 135.

## Chapter III. Cooperation, responsibilities, duties and rights of employers and workers

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187. Cooperation on OSH at the level of the undertaking between management, workers and their representatives is an essential element of workplace prevention. Such cooperation is made possible through a system of defined rights and duties. This Chapter first examines arrangements for cooperation between employers and workers in the promotion of OSH, and then turns to the specific roles of employers and workers: their duties, responsibilities and rights.

### 1. Cooperation at the level of the undertaking between management and workers and their representatives on safety and health matters

#### Box 3.1

##### Cooperation at the level of the undertaking

Article 4(2)(d) of Convention No. 187 provides that:

The national system for occupational safety and health shall include among others:

...

- (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.

188. Convention No. 187 establishes that arrangements promoting cooperation constitute an essential element of workplace-related prevention measures, and are a core component of the national OSH system. These arrangements are the only essential component of the national OSH system that relates specifically to the enterprise level. The other mandatory components refer to measures at the national level: the normative framework, the competent authority responsible for OSH and mechanisms for ensuring compliance. During the first discussion at the Conference leading up to the adoption of the Convention, the importance of creating a link between the national system and enterprises, where accidents and ill health actually occurred, was highlighted.<sup>1</sup> It was emphasized that national systems could only have an impact if they included the promotion of cooperation between managers and workers at the enterprise level. Arrangements to promote such cooperation were therefore included in the Convention as an essential element of the national system.<sup>2</sup>

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<sup>1</sup> ILO: *Record of Proceedings* No. 18, Report of the Committee on Safety and Health, ILC, 93rd Session, Geneva, 2005, para. 168, p. 18/37.

<sup>2</sup> *ibid.*

189. Article 4(2)(d) of Convention No. 187 reflects the provisions in Convention No. 155 that cooperation at the level of the undertaking is a main sphere of action to be taken into account in the national OSH policy.<sup>3</sup> As noted in the 2009 General Survey, a majority of countries require the establishment of structures for cooperation between management, workers and their representatives at the level of the undertaking,<sup>4</sup> and several countries also provide for a general obligation to engage in cooperation at the level of the undertaking on OSH.<sup>5</sup> For example, the Work Environment Act of *Sweden* provides that employers and employees must cooperate to create a good working environment, and the Act also outlines specific structures for this cooperation.<sup>6</sup>

190. The strengthening of cooperation at the level of the undertaking has been identified by several countries as a component of their national OSH policy. For example, the Government of *Kenya* reported that the national OSH policy and strategy document identifies the establishment of bipartite cooperation and consultation mechanisms as a strategic means and goal to prevent occupational accidents and work-related diseases. The Government of *Sri Lanka* reported that its national policy on OSH recognizes as an objective the establishment and strengthening of OSH committees at the enterprise level with the participation of the employers, workers and the Ministry of Health.

## Methods to facilitate cooperation, including the establishment and functioning of OSH committees

191. Cooperation on OSH issues at the enterprise level often takes place through the establishment of occupational safety and health committees. In this regard, Recommendation No. 197 provides that promoting, at the level of the workplace, the establishment of joint safety and health committees, in accordance with national law and practice, is an important component of promoting a national preventative safety and health culture.<sup>7</sup>

192. Although certain countries indicated that the establishment of OSH committees is voluntary for workplaces of all sizes,<sup>8</sup> or that the establishment of such committees is limited to permanent workplaces,<sup>9</sup> many governments reported that workplaces of a certain size are required to have health and safety committees.<sup>10</sup> Certain governments also provided information on the number of such committees that have been established. For example, the Governments of *Ecuador* and *Costa Rica* indicated that 12,245 and 7,458 OSH committees have been registered, respectively, while the Government of *Spain*

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<sup>3</sup> Article 5(d) of Convention No. 155. See ILO: *General Survey on occupational safety and health*, 2009, paras 205–214. Article 20 of Convention No. 155 also emphasizes that cooperation between management and workers and/or their representatives within the undertaking shall be an essential element of organizational and other measures taken in pursuance of the provisions of the Convention relating to the duties of employers and the arrangements at the level of the undertaking to ensure the rights and responsibilities of workers.

<sup>4</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 206.

<sup>5</sup> For example *Finland*, *Sweden* and the *United Kingdom*.

<sup>6</sup> Section 1(a) of Chapter 3 and section 8 of Chapter 6 of the Work Environment Act of Sweden (1977:1160), 1977.

<sup>7</sup> Paragraph 5(f) of Recommendation No. 197. Paragraph 12 of Recommendation No. 164 provides further detailed guidance on the establishment of OSH committees.

<sup>8</sup> For example, *Cambodia* and the *United States* (at the federal level).

<sup>9</sup> For example, *Chile* and *Turkey*.

<sup>10</sup> For example, *Bangladesh*, *Chile*, *El Salvador*, *Guatemala*, *France*, *Iceland*, *Romania*, *South Africa*, *Spain* and *Syrian Arab Republic*.

indicated that an OSH committee has been established in almost all workplaces with more than 250 workers and in two-thirds of workplaces employing between 50 and 249 workers.

193. Certain workers' organizations emphasized the importance of the establishment of such committees. For example, the Canadian Labour Congress (CLC) indicated that in *Canada*, the establishment of a joint health and safety committee with representation from workers and management creates an internal responsibility system to identify and rectify the presence of OSH hazards and provides a simple and established mechanism to cooperate and consult on keeping the workplace safe. The Confederation of Workers of Argentina (CTA Autonomous) indicated that several collective agreements in *Argentina* establish safety and health committees at the workplace. These complement the legislation in two provinces that provides for the mandatory establishment of such joint committees.

194. However, the Committee is concerned that several workers' organizations and an employers' organization identified difficulties with respect to the functioning of OSH committees. In the case of *Austria*, the Austrian Chamber of Labour (AK) indicated that previously safety and health committees had been required to meet twice annually, but the legislation has been amended to reduce this to once a year. The AK underlined that this is counter to the spirit of Recommendation No. 197 and could mistakenly signal that such committees are superfluous. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that in the *United States* there is no statutory requirement for safety and health committees under either the OSH Act or the Mine Safety Act, but that many collective bargaining agreements include requirements for the establishment of a safety and health committee and some accord workers and their representatives paid time for these activities. The AFL-CIO stated that, as the number of workers covered by collective bargaining agreements in the *United States* is relatively small, most workers do not have a right to participate in safety and health at the worksite. The Confederation of National Trade Unions (CSN) stated that the Law on health and safety at work in Quebec, *Canada*, provides that a health and safety committee can be formed in establishments with more than 20 workers in certain identified sectors, including construction, mines, quarries, chemical production and transport. The CSN emphasized that this excludes many sectors where primarily women are employed, such as teaching, health and social services, and excludes these workers from access to the same preventive tools as in other sectors. The Union of Forestry Department Employees Sarawak (UFES) indicated that occupational safety and health committees are being established in *Malaysia*, but are not operational, and that workers are not free to express their views in such committees. The Australian Council of Trade Unions (ACTU) indicated that OSH committees are not mandatory in *Australia*, and that the process of establishing a committee can be initiated by the health and safety representatives elected by workers or at the request of five workers. The ACTU indicated that the estimated number of workplaces with health and safety committees is quite small outside the building and construction sector, and that they often only exist in enterprises where unions are present. The Single Confederation of Workers of Colombia (CUT) indicated that joint committees on OSH are present in fewer than half of enterprises (44.7 per cent) in *Colombia* and are confronted by several issues, including: undue interference by the employer in the selection of workers' representatives; the low interest and expertise of members; the lack of plans of action and resources for their proper functioning; and the lack of monitoring of their operation by the inspection system. Moreover, the National Confederation of United Independent Unions (CONUSI) stressed that, although the committees are established by law, their functioning is not promoted in practice in *Panama*. In fact, worker members are not consulted in the decision-making process relating to OSH issues, do not

have access to all areas of the worksite, are not protected against dismissal and, overall, are not granted enough time to discharge their functions. The Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) emphasized that joint committees on OSH in the *Dominican Republic* are established at the level of the enterprise mainly where there is a strong presence of workers' organizations and a collective agreement in place, and that there are no provisions to protect their members. In this respect, the Employers' Confederation of the Dominican Republic (COPARDOM) highlighted that only those enterprises registered in the database of the Social Security Fund as large enterprises establish joint committees on OSH, even though they are compulsory in enterprises with more than 15 workers pursuant to OSH regulations. However, it indicated that the Ministry of Labour is considering taking measures to ensure that a higher number of enterprises comply with the regulations.

**195. *The Committee recalls that cooperation between employers and workers is an essential principle of OSH, without which no tangible progress in this area can be achieved.*<sup>11</sup> *This cooperation is an essential pillar of any national OSH system. Accordingly, the Committee encourages all governments to take measures to promote cooperation on OSH at the workplace, including through promoting the establishment and functioning of OSH committees.***

196. As noted in the 2009 General Survey, most countries have established a specific threshold of the number of employed workers that triggers the requirement for the establishment of a safety and health committee.<sup>12</sup> The Governments of *Colombia*, *Costa Rica* and *Honduras* reported that workplaces with more than ten workers are required to establish an OSH committee, while the Governments of *Finland*, *Germany* and *Kenya* indicated that the threshold is 20 workers. The Government of *Zimbabwe* reported that functional safety committees are a challenge in small to medium-sized enterprises, and numerous other countries reported that only workplaces with more than 50 workers are required to establish joint OSH committees, including the Governments of *Iceland*, *Mauritania*, *Mauritius*, *Morocco*, *Pakistan*, and *Senegal*. Some governments indicated that the threshold differs depending on the sector. For example, the Government of *Burkina Faso* reported that the threshold is 30 workers for the industrial sector, public works, building, mines and quarries, but 100 workers for commercial and administrative establishments.

197. In examining the application of Convention No. 187, the Committee has consistently requested governments with thresholds of a certain number of workers for the establishment of such committees to provide information on the measures that they are taking to promote cooperation between management, workers and their representatives in smaller enterprises.<sup>13</sup> Moreover, the Committee has taken note of observations received from workers' organizations which emphasize that, by limiting the establishment of safety

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<sup>11</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 205.

<sup>12</sup> *ibid.*, para. 207.

<sup>13</sup> See, for example: *Cuba* – CEACR, Convention No. 187, direct request, published in 2010; *Malaysia* – CEACR, Convention No. 187, direct request, published in 2015; *Mauritius* – CEACR, Convention No. 187, direct request, published in 2015; and *Turkey* – CEACR, Convention No. 155, direct request, published in 2016.

and health committees to larger workplaces, the majority of workplaces in the country are excluded,<sup>14</sup> and specifically those workplaces where most accidents occur.<sup>15</sup>

198. The Committee notes the challenges of promoting cooperation between management, workers and their representatives in small and micro-enterprises, and that establishing bipartite OSH committees may be difficult for such enterprises. In this respect, it notes the indication by the Australian Chamber of Commerce and Industry (ACCI) that OSH committees are encouraged as part of consultations, but that flexibility is also important, taking into account the size and nature of operations.

199. To address the challenge of facilitating cooperation in small enterprises, some countries have established a system of workers' OSH representatives for smaller undertakings. For example, in *Iceland*, undertakings with between ten and 50 employees elect a workers' safety representative. For undertakings with between one and nine employees, the OSH Administration may decide that the election of safety representatives is necessary, and in such smaller workplaces the employer has the obligation to collaborate with employees and their shop steward on health and safety.<sup>16</sup> The Work Environment Act in *Denmark* provides that in enterprises with between ten and 34 workers, cooperation on health and safety shall be organized through a health and safety group composed of one or more supervisors and one or more elected health and safety representatives, and enterprises with 35 or more employees shall establish OSH committees comprised of representatives of both workers and management. In enterprises with between one and nine employees without a health and safety group, cooperation on health and safety must occur through regular direct contact and dialogue between the employer, the employees and any supervisors. At least once a year, the employer shall, together with the employees and any supervisors, hold a safety and health meeting in order to determine how cooperation shall proceed in the coming year, assess whether the previous year's goals were achieved, set targets for cooperation in the coming year, and discuss whether the enterprise has enough expertise in the area of health and safety. Records of these meetings must be kept and made available to the work environment authority. The Government of *South Africa* reported on a roving safety representative project in agriculture, in the context of which safety representatives have been elected and trained for two regions to travel from farm to farm to promote OSH, advise on OSH issues and undertake workplace checks. The Government reported that the project has been particularly successful in promoting participation in small workplaces that are not required under national legislation to have a designated representative, which is workplaces with fewer than 20 workers.

200. Some countries have taken concrete measures to promote mechanisms in small enterprises to ensure communication of OSH information and appropriate training for workers, and to enhance cooperation through workers' participation. For example, in *Mexico*, the System for Integrated Measurement and Advance of Productivity (SIMAPRO), an ILO programme based on social dialogue among managers, workers and

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<sup>14</sup> *Japan* – CEACR, Convention No. 187, direct request, published in 2016.

<sup>15</sup> *Republic of Korea* – CEACR, Convention No. 187, direct request, published in 2015. The Committee noted the statement of the Federation of Korean Trade Unions that 80 per cent of accidents occurred at workplaces of less than 50 workers, which were not required to establish OSH committees.

<sup>16</sup> Sections 4–6 of Regulation No. 920/2006 on the organization and implementation of health and safety at workplaces.

unions, has been implemented in SMEs. The programme includes training for employees and periodic meetings for discussion, including on OSH issues.<sup>17</sup>

*201. The Committee recognizes the challenges with respect to the implementation of mechanisms for cooperation in small enterprises. However, it also considers that these essential preventative mechanisms may be most needed in smaller workplaces, where a large number of accidents occur. The Committee accordingly encourages all governments to examine the measures that can be taken to promote cooperation between employers and workers on OSH issues in SMEs borrowing, where appropriate, from practices described above.*

## Construction

### **Box 3.2** **Cooperation in construction**

Article 6 of Convention No. 167 provides that:

Measures shall be taken to ensure that there is co-operation between employers and workers, in accordance with arrangements to be defined by national laws or regulations, in order to promote safety and health at construction sites.

202. Convention No. 167 requires that measures be taken to ensure that there is cooperation to promote safety and health at construction sites and provides that arrangements for this cooperation must, to some extent, be defined in laws or regulations. Recommendation No. 175 provides additional guidance that such measures should include the establishment of safety and health committees representative of employers and workers, the election or appointment of workers' safety delegates, the provision of training for these delegates and committee members and the appointment, by the employer, of persons to promote safety and health.<sup>18</sup>

203. This remains an essential mechanism for safety and health at construction sites today. In 2015, the Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects identified that joint health and safety committees, where they exist, are effective workplace prevention measures and a mechanism through which the tripartite constituents could promote OSH and workplace compliance, including the prevention of fatal and non-fatal accidents and diseases.<sup>19</sup> Nonetheless, the construction sector faces particular difficulties in this respect. The preparatory work for Convention No. 167 highlighted that, while there is a need for greater cooperation between employers and workers at construction sites, there are certain obstacles to the establishment of specific mechanisms for this cooperation. In particular, the presence of numerous on-site employers, the transient nature of construction sites, and the high rate of labour turnover make the establishment and continuity of joint safety committees more difficult.<sup>20</sup>

204. The Committee notes that some countries have dealt with this issue in a constructive way. Indeed, numerous countries reported that the general obligations for workplaces to

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<sup>17</sup> SIMAPRO has been also implemented in other Latin American countries, such as *Chile, Cuba and Dominican Republic*. See: <http://www.surinamecompete.org/wp-content/uploads/2016/05/SIMAPRO-BROCHURE-ENGLISH.pdf> [last accessed 17 Jan. 2017].

<sup>18</sup> Paragraph 6 of Recommendation No. 175.

<sup>19</sup> ILO: *Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects: Points of Consensus* (Geneva, 2015) (GDFPDWC/2015/6), paras 5 and 14.

<sup>20</sup> ILO: *Safety and Health in Construction*, Report V(1), ILC, 73rd Session, Geneva, 1987, pp. 5, 6 and 12.

establish cooperation mechanisms applies to the construction sector, and certain countries reported having specific legislation addressing cooperation in this sector. For example, the Government of the *United Kingdom* indicated that the Construction (Design and Management) Regulations place a duty on the principal contractor to consult and engage with workers or their representatives on matters connected with the construction project which may affect their health safety or welfare,<sup>21</sup> and that this duty is in addition to the general obligation for all employers, including those in the construction industry, to consult workers or their representatives. The Government of *Ecuador* referred to the regulation on safety and health in construction and public works, which requires employers to establish a joint safety and health committee in workplaces with more than 15 workers, pursuant to the general obligations under national law.<sup>22</sup> The Australian Council of Trade Unions (ACTU) reported a higher level of workplaces in *Australia* with health and safety committees in the building and construction industry than in other sectors, mainly in larger building and construction projects. The union indicated that consultation at the workplace level in the construction sector is normally set out in collective agreements, which supplement and enhance the applicable legislative obligations.

205. The exclusion, in certain national laws, of temporary workplaces<sup>23</sup> from the requirements relating to structures for the promotion of cooperation on safety and health issues has a particular impact in the construction sector, where work sites are often temporary and mobile. ***In this connection, the Committee emphasizes that the requirements of the Convention related to the promotion of cooperation between employers and workers with a view to improving safety and health are not limited to permanent workplaces.***

206. Certain workers' organizations noted difficulties relating to the establishment of mechanisms for cooperation in construction. For example, the National Confederation of Trade Unions of Moldova (CNSM) indicated that, while it is mandatory in the *Republic of Moldova* to create OSH committees in construction pursuant to the applicable collective agreement, only approximately 54 per cent of enterprises in the sector have done so. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that OSH committees are not normally established in the construction sector in *Ukraine*, and that cooperation and consultation only occur in enterprises with strong trade unions. The General Union of Workers (UGT) indicated that in *Spain* only 15 to 20 per cent of eligible enterprises in the construction sector (those with at least 30 workers) have established an OSH committee.

207. ***The Committee strongly encourages all governments to examine measures that can be taken to promote effective and continuous cooperation at all construction sites, including measures to overcome the specific constraints faced in the sector, such as the establishment of specific cooperation mechanisms in temporary and mobile work sites and those with a high rate of labour turnover.***

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<sup>21</sup> Section 14 of the Construction (Design and Management) Regulations No. 51, 2015.

<sup>22</sup> Sections 3 and 18 of the Regulation on Safety and Health in construction and public works, 2008.

<sup>23</sup> For example, one country reported that OSH committees only have to be established in undertakings where permanent work is performed for more than six months.



## Mining

### Box 3.3 Cooperation in mining

Article 15 of Convention No. 176 provides that:

Measures shall be taken, in accordance with national laws and regulations, to encourage cooperation between employers and workers and their representatives to promote safety and health in mines.

208. Convention No. 176 requires measures to be taken to encourage cooperation between employers and workers. Recommendation No. 183 adds that such measures should include the establishment of cooperative mechanisms, such as safety and health committees, with equal representation of employers and workers, and having such powers and functions as may be prescribed, including powers to conduct joint inspections. Such measures should also include the consultation of workers and their representatives by the employer in establishing safety and health policy and procedures.<sup>24</sup>

209. The Committee has consistently emphasized the importance of taking measures to encourage cooperation between employers, workers and their representatives in mining.<sup>25</sup> Many governments indicated that the general obligations to establish cooperation mechanisms also apply to mines, while several Governments, including those of *Argentina*, *Mozambique*, *New Zealand* and *South Africa*, reported the adoption of legislation on safety and health in mining regulating the issue. For example, the Government of *New Zealand* reported that worker participation systems must be developed, implemented and maintained in all mining operations. Such systems may include, by agreement, site health and safety representatives and/or site health and safety committees, and a default worker participation system will apply if no system is in place within the relevant time frame.

210. With respect to the powers of joint OSH committees, several countries indicated that OSH committees have the function of undertaking joint inspections, as provided for in Recommendation No. 183. For example, in *Paraguay*, the functions of workplace OSH committees include periodically inspecting facilities.<sup>26</sup> The functions of health and safety committees in *Mali* encompass carrying out frequent inspections in establishments with a view to ensuring compliance with OSH requirements.<sup>27</sup> The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that, in some cases, collective agreements in mining in *Mexico* regulate OSH measures and provide specifically for the establishment of joint committees on OSH, which also perform preventive functions in assessing occupational risks through monthly workplace visits.

211. With respect to small mines, Recommendation No. 183 emphasizes that the competent authority should provide specific assistance with a view to encouraging cooperation and consultation between employers and workers and their representatives.<sup>28</sup> The Committee recalls in this respect that the Tripartite Meeting on Social and Labour

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<sup>24</sup> Paragraph 31 of Recommendation No. 183.

<sup>25</sup> For example, *Zambia* – CEACR, Convention No. 176, observation, published in 2016.

<sup>26</sup> Section 292 of Decree No. 14.390/92, General Technical Regulation on Occupational Medicine and Safety and Health.

<sup>27</sup> Section D.282-6 of Decree No. 96-178/PRM of 13 June 1996 establishing the procedures and provisions of the Labour Code.

<sup>28</sup> Paragraph 5(b)(iii) of Recommendation No. 183.

Issues in Small-Scale Mines examined the challenges of establishing cooperation in small mines,<sup>29</sup> and that the resolution adopted by the Meeting calls for the promotion of social dialogue in small-scale mines, including cooperation with other relevant stakeholders, to improve working conditions.<sup>30</sup>

**212. *The Committee stresses the importance of encouraging cooperation between employers and workers and their representatives in the promotion of safety and health in mines. It encourages governments to take concrete measures to this end, paying specific attention to the support that can be provided to small mines.***

## Agriculture

213. Convention No. 184 refers to both the right of workers to be consulted on safety and health matters and their duty to cooperate with employers in order for the latter to comply with their obligations.<sup>31</sup> Although the Convention provides that workers have the right to select representatives in safety and health committees in accordance with national law and practice,<sup>32</sup> the instruments for this sector do not specifically recommend the establishment of joint OSH committees, as is the case for the other sectoral instruments examined in this Survey. During the preparatory work for the instruments, it was highlighted that many agricultural workplaces do not meet national thresholds for the number of workers specified for the establishment of such committees.<sup>33</sup>

214. In this respect, certain governments reported that the general provisions relating to consultation and cooperation apply to the agricultural sector,<sup>34</sup> while others indicated that in practice there is consultation on OSH at the enterprise level in agricultural firms. Nonetheless, most governments did not provide information on measures to promote cooperation specifically in this sector, and one government reported that it is not required to have in place an OSH committee in the agricultural sector.<sup>35</sup>

215. The Government of *New Zealand* reported that, under the new legislation adopted in 2015, a person conducting a business or undertaking is not required to establish a health and safety representative system in workplaces with fewer than 20 employees that are not deemed to be high risk, even if requested by an employee. In this respect, the New Zealand Confederation of Trade Unions (NZCTU) indicated that workers in the agricultural industry would not be able to request a health and safety representative, as the proposed definition of high-risk workplaces excludes that sector, despite it being one of the most dangerous in the country. The Government of *New Zealand* responded that the person conducting a business or undertaking would still have to ensure effective worker participation practices and Business New Zealand stated that in small, low-risk workplaces all workers would likely be aware of health and safety issues and would be more likely to cooperate readily in dealing with such matters.

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<sup>29</sup> ILO: *Report for discussion at the Tripartite Meeting on Social and Labour Issues in Small-scale Mines* (Geneva, 1999), p. 83.

<sup>30</sup> ILO: *Resolution concerning the fundamental Conventions of the International Labour Organization and future activities of the ILO in small-scale mines*, adopted by the Tripartite Meeting on Social and Labour Issues in Small-scale Mines (1999).

<sup>31</sup> Articles 8(1)(a) and (b), and 8(2) of Convention No. 184.

<sup>32</sup> *ibid.*, Article 8(1)(b).

<sup>33</sup> ILO: *Safety and Health in Agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 38.

<sup>34</sup> For example, *Italy*, *Spain* and the *United Kingdom*.

<sup>35</sup> *Japan*.

216. Certain trade unions reported further difficulties in the establishment of mechanisms for cooperation in the agricultural sector. The Canadian Labour Congress (CLC) indicated that in *Canada* there are no joint health and safety committees or other formal mechanisms for cooperation or coordination between workers and management in the agricultural sector, except in food processing. The National Confederation of Trade Unions of Moldova (CNSM) indicated that, while pursuant to the sectoral collective agreement the employer is responsible for the establishment of a health and safety committee and the training of its members, this has only been partially achieved, as only 61 per cent of units in the agricultural sector have established such committees in the *Republic of Moldova*.

217. *The Committee recalls the important role of consultation and cooperation in agricultural enterprises of all sizes in improving OSH outcomes in agriculture and encourages governments to pursue measures to this end.* In this respect, it draws attention to the practical guidance on cooperation in agricultural undertakings, including the establishment of OSH committees, contained in the ILO Code of practice on safety and health in agriculture.<sup>36</sup>

## 2. Employers' duties and responsibilities with respect to OSH

218. Convention No. 187 emphasizes the importance of having a system of defined rights, responsibilities and duties for the active participation of employers and workers. As a promotional framework, it does not contain specific requirements related to employers' duties, and during the discussions on the instruments it was underlined that these responsibilities and duties are covered in other OSH Conventions.<sup>37</sup>

219. In particular, Convention No. 155 outlines the general duties and responsibilities of employers with respect to OSH, and the Committee noted in the 2009 General Survey that, in the member States examined, national legislation explicitly stated that the employer is fully responsible for the safety and health of workers and is required to take all the necessary preventive and protective measures to achieve this goal.<sup>38</sup> The responses received from governments concerning the general obligations of employers reflect continuity in this regard, and numerous countries provided information on employers' duties in general.<sup>39</sup> This section examines the specific duties of employers under the three sectoral Conventions, and the extent to which these provisions are implemented.

## Construction

### Box 3.4 Duties of employers in construction

Article 7 of Convention No. 167 provides that:

National laws or regulations shall require that employers and self-employed persons have a duty to comply with the prescribed safety and health measures at the workplace.

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<sup>36</sup> ILO: *Code of practice on safety and health in agriculture* (Geneva, 2011).

<sup>37</sup> ILO: *Record of Proceedings* No. 18, Report of the Committee on Safety and Health, ILC, 93rd Session, Geneva, 2005, para. 192.

<sup>38</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 173.

<sup>39</sup> For example, *Bahrain, Bangladesh, Bolivarian Republic of Venezuela, Bulgaria, Costa Rica, Honduras, Israel, Kenya, Mali, Mauritania, Nicaragua, Romania, Sri Lanka, Syrian Arab Republic, the former Yugoslav Republic of Macedonia and Togo*.

220. Article 7 of Convention No. 167 is formulated in broad terms. While the Convention also outlines several specific duties of employers relating to fire precautions, the provision and maintenance of personal protective equipment and the availability of first aid,<sup>40</sup> most of the preventive and protective measures required pursuant to Part III of the Convention do not specifically identify that these measures must be implemented by the employer, leaving it to national legislation to prescribe the specific obligations in this respect.

221. In practice, as noted above, in most countries, all employers have general duties and responsibilities concerning safety and health measures, and certain governments specifically indicated in their reports that these general obligations apply equally to the construction sector.<sup>41</sup> Other governments reported that national legislation assigns particular duties to employers in the sector, with specific OSH requirements for construction sites and the protection of workers against risks particular to the sector.<sup>42</sup> For example, in *Lithuania*, employers must comply with OSH laws and regulations and ensure the tidiness of the construction site, safe worksite layout and the safe use of materials, with particular regard to the storage of hazardous materials.<sup>43</sup> In *Panama*, the employer has the obligation to comply and ensure compliance with the OSH plan, which is elaborated by the person for whom the construction project is carried out.<sup>44</sup> The legislation concerning construction in *Colombia* also establishes specific obligations for employers with regard to the protection of workers against falls from heights.<sup>45</sup>

***222. The Committee recalls the importance of prescribing clear responsibilities for employers with regard to safety requirements in the construction sector, taking into account the specific risks faced by construction workers.***

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<sup>40</sup> Articles 29, 30 and 31 of Convention No. 167. These specific obligations are analysed in Chapter IV of the General Survey.

<sup>41</sup> For example, *Antigua and Barbuda, Chile, Costa Rica, Honduras, Iceland, Japan, Kenya, Morocco, Namibia, Nicaragua, Romania, Senegal, Sri Lanka* and *Zimbabwe*.

<sup>42</sup> For example, *Belgium, Bosnia and Herzegovina, Cambodia, Colombia, Cuba, Ecuador, Ethiopia, Finland, Guatemala, Indonesia, Lithuania, Panama, Peru* and *South Africa*.

<sup>43</sup> Section 16 of the Order approving the Regulations on the organization of construction sites (provisions of approval No. A1-22 /D1-34 of 15 January 2008).

<sup>44</sup> Section 18 of Executive Decree No. 2 of 15 February 2008, regulating occupational safety, health and hygiene in the construction industry.

<sup>45</sup> Section 3 of Decision No. 1409 of 2012 issuing safety regulations for protection against falls from heights.

## Mining

### **Box 3.5** **Certain responsibilities of employers in mining**

Article 7 of Convention No. 176 provides that:

Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control, and in particular:

- (a) ensure that the mine is designed, constructed and provided with electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment;
- (b) ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers can perform the work assigned to them without endangering their safety and health or that of other persons;
- (c) take steps to maintain the stability of the ground in areas to which persons have access in the context of their work;
- (d) whenever practicable, provide, from every underground workplace, two exits, each of which is connected to separate means of egress to the surface;
- (e) ensure the monitoring, assessment and regular inspection of the working environment to identify the various hazards to which the workers may be exposed and to assess their level of exposure;
- (f) ensure adequate ventilation for all underground workings to which access is permitted;
- (g) in respect of zones susceptible to particular hazards, draw up and implement an operating plan and procedures to ensure a safe system of work and the protection of workers;
- (h) take measures and precautions appropriate to the nature of a mine operation to prevent, detect and combat the start and spread of fires and explosions; and
- (i) ensure that when there is serious danger to the safety and health of workers, operations are stopped and workers are evacuated to a safe location.

223. From the first phase of the preparatory work to Convention No. 176, it was highlighted that the instrument should assign specific responsibilities to employers with respect to mine safety.<sup>46</sup> In contrast to Convention No. 167, which does not identify the actor responsible for implementing most of the preventive and protective measures required, Convention No. 176 clearly outlines the measures that must be taken by employers.<sup>47</sup> The paragraphs<sup>48</sup> below focus on the specific obligations outlined in Article 7(a)–(h) of the Convention.<sup>49</sup> The Convention outlines certain other obligations of employers, which are examined in Chapter IV below, including: a general obligation concerning the adoption of protective and preventive measures based on the assessment of occupational risks and hazards (Article 6 of the Convention) as well as the adoption of other preventive measures (Articles 8 and 9).

224. The Committee has noted that most ratifying countries have given effect to Article 7,<sup>50</sup> while others have given effect to certain of the obligations set out in the

<sup>46</sup> ILO: *Safety and health in mines*, Report V(2), ILC, 81st Session, Geneva, 1994, pp. 20–22.

<sup>47</sup> In this respect, the Committee notes the observations of the IOE recalling that employer delegates, at the time Convention No. 176 was adopted, considered that the Convention has flexibility to be adapted to different national circumstances as it sets out the rights, duties and responsibilities of employers, workers and governments.

<sup>48</sup> Paragraphs 224–233.

<sup>49</sup> Article 7(i) of Convention No. 176 is analysed in the paragraphs 238–242 below on “Employers’ obligations in situations of danger to the safety and health of workers”.

<sup>50</sup> For example, *Austria, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Germany, Ireland, Norway, Poland, Peru, Spain, South Africa, Sweden and United States*.

Article.<sup>51</sup> In a few cases, the Committee noted that the legislative provisions of ratifying Members do not expressly assign certain obligations provided for under this Article to employers.<sup>52</sup> Among non-ratifying Members, many national laws and regulations specific to mining assign at least a general obligation to the employer for the adoption of preventive and protective measures.<sup>53</sup>

225. *Design and construction of mines.* With respect to Article 7(a), the preparatory work for the instruments emphasized the importance for accident prevention of ensuring safe design, including foreseeing the impact of natural forces on mine plans, and following design parameters during construction.<sup>54</sup> For example, in the *United Kingdom*, the mining regulations provide that the mine operator must take the necessary measures to ensure, so far as is reasonably practicable, that the mine and its equipment are designed, constructed, equipped, commissioned, operated and maintained so that persons can perform their work without endangering their own health and safety or that of others. The mine operator must also develop a health and safety document containing measures concerning the design of the mine to safeguard health and safety.<sup>55</sup> The regulations on safety and health in mining in *Peru* require the mine operator at the exploration and exploitation phases to develop a mine plan aimed at minimizing safety risks, and the construction of the mine to be in accordance with the mine plan. The regulations also provide that specific elements of the mine must be designed taking into account safety and health.<sup>56</sup>

226. *Commissioning, operation, maintenance and decommissioning of mines.* In terms of precise obligations, the Committee has noted that the legislation in some countries gives effect to Article 7(b) of the Convention.<sup>57</sup> For example, in *Morocco*, before starting or restarting mining activities, the operator of the mine is required to inform the competent authority and to provide a plan of the site and a report on the activities to be undertaken at least two months in advance of the date foreseen for the start of the works. Mining activities can start only after the adoption by the operator of the measures required by the competent authority. In the case of the decommissioning of the mine, the employer is required to submit, within the same deadline and together with the same documents required for the start of activities, a declaration to the competent authority, and must take any steps requested by the competent authority prior to decommissioning.<sup>58</sup> In *South Africa*, the owner of the mine must ensure, as far as reasonably practicable, that the mine

<sup>51</sup> *Albania* – CEACR, Convention No. 176, direct request, published in 2016; *Czech Republic* – CEACR, Convention No. 176, direct request, published in 2011; *Finland* – CEACR, Convention No. 176, direct request, published in 2016; *Lebanon* – CEACR, Convention No. 176, direct request, published in 2016; *Morocco* – CEACR, Convention No. 176, direct request, published in 2016; *Portugal* – CEACR, Convention No. 176, direct request, published in 2016; *Philippines* – CEACR, Convention No. 176, observation, published in 2015; *Slovakia* – CEACR, Convention No. 176, direct request, published in 2015; and *Zambia* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>52</sup> *Philippines* – CEACR, Convention No. 176, observation, published in 2015; *Zimbabwe* – CEACR, Convention No. 176, direct request, published in 2015.

<sup>53</sup> For example, *Argentina, Ecuador, Estonia, Republic of Korea, Latvia, Myanmar and Tunisia*.

<sup>54</sup> ILO: *Safety and health in mines*, Report V(1), ILC, 81st Session, Geneva, 1994, p. 12.

<sup>55</sup> Sections 7 and 9 of the Mines Regulations, 2014.

<sup>56</sup> Supreme Decree No. 055-2010-EM approving the Regulations on occupational safety and health and other supplementary measures in mining.

<sup>57</sup> See, for example, *Ireland* – CEACR, Convention No. 176, direct request, published in 2016; *Poland* – CEACR, Convention No. 176, direct request, published in 2015; *Spain* – CEACR, Convention No. 176, direct request, published in 2011.

<sup>58</sup> Sections 167–169 of Vizierial ruling of 18 February 1938 establishing general regulations on the exploitation of mines other than fuel mines.

is commissioned, operated, maintained and decommissioned in such a way that employees can perform their work without endangering their own health and safety or that of any other person.<sup>59</sup>

227. *Stability of the ground.* As stressed during the preparatory work for the instruments, “falls of ground” (collapse of the land) are a major cause of loss of life in mines.<sup>60</sup> For this reason, reflecting the requirement of Article 7(c) of the Convention, the legislation of numerous countries provides that steps must be taken to maintain the stability of the ground.<sup>61</sup> In this regard, Recommendation No. 183 outlines the appropriate measures that should be taken to: monitor and control the movement of strata; provide effective support for the roof, sides and floor of the mine workings; monitor and control the sides of surface mines; and ensure that impoundments are adequately designed, constructed and controlled to prevent danger from sliding material or collapse. In *Turkey*, the Regulations on OSH in mining provides that galleries must be regularly checked in terms of ground strength and supports must be regularly provided with maintenance. Necessary safety measures must be taken when repairing, changing, erecting or dismantling supports and persons must be designated as being responsible for each part that requires support.<sup>62</sup> The legislation in *Italy* requires employers, before the start of activities, to prepare a report updated every year on the stability of the ground, also taking into consideration the risk of landslides and rock falls.<sup>63</sup>

228. *Two exits underground.* The preparatory work for the instruments underlined that certain dangers, such as the sudden outburst of rock into the mine workings, sometimes followed by the escape of toxic gases, can trap mine workers miles below ground, and that there is therefore a need for two exits from workplaces underground.<sup>64</sup> The resulting obligation of employers concerning exits from underground workplaces outlined in Article 7(d) of the Convention is reflected in the legislation of several ratifying and non-ratifying countries.<sup>65</sup> Paragraph 14 of Recommendation No. 183 further provides that separate means of egress should be as independent of each other as possible. For example, in *Italy*, every underground mine or quarry must be designed and built in such a way that, in case of inaccessibility of a means of egress to the surface, workers can use an alternative exit. There should be at least two separate means of egress as distant as possible from each other, and where required by the nature, extent or duration of the operations, employers must provide workers with underground accommodations with at least two independent exits.<sup>66</sup> In *Cuba*, every mine must have at least two main exits that communicate with the surface to facilitate the circulation of people in case of emergency. The exits cannot lead to the same external facility. Moreover, every level of an underground mine must have at

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<sup>59</sup> Section 2.1 of the Mine Health and Safety Act No. 29/1996.

<sup>60</sup> ILO: *Safety and Health in Mines*, Report V(1), ILC, 81st Session, Geneva, 1994, p. 12.

<sup>61</sup> For example, *Brazil, Cuba, Ecuador, Italy, Morocco, Peru* and *Russian Federation*. See also, *Botswana* – CEACR, Convention No. 176, direct request, published in 2011; *South Africa* – CEACR, Convention No. 176, direct request, published in 2010; and *United States* – CEACR, Convention No. 176, direct request, published in 2010.

<sup>62</sup> Annex 3, section 7 of the Regulations on occupational health and safety in mining workplaces, No. 28770 of 19 September 2013.

<sup>63</sup> Section 52 of Legislative Decree No. 624/1996.

<sup>64</sup> ILO: *Safety and Health in Mines*, Report V(1), ILC, 81st Session, Geneva, 1994, pp. 21–22.

<sup>65</sup> For example, *Brazil, Cuba, Italy, Morocco, Peru, Russian Federation* and *Turkey*. See also, *United States* – CEACR, Convention No. 176, direct request, published in 2010.

<sup>66</sup> Sections 37 and 98 of Legislative Decree No. 624/1996.

least two different means of communication with the other levels.<sup>67</sup> Similarly, in *Morocco*, every mine needs to have at least two means of egress at a minimum distance of 30 metres from each other and they cannot lead to the same facility.<sup>68</sup>

229. *Monitoring and assessment of the working environment.* Among the measures necessary to eliminate or minimize risks, Article 7(e) of the Convention requires employers to ensure the monitoring, assessment and regular inspection of the working environment. In this regard, the Committee noted that effect is given to this provision in several countries.<sup>69</sup> In the *United Kingdom*, the mine operator must: (a) make arrangements for the systematic inspection of all parts of the mine below ground, including where people work or pass or which otherwise could have an effect on the health and safety of persons at work at the mine; (b) divide the mine into districts for the purpose of inspection; (c) prepare and keep up to date a suitable written scheme for the inspection of the mine; (d) appoint sufficient competent persons to undertake these activities; (e) ensure that, where appropriate, suitable written reports are made of inspections and that each report records significant defects and the steps taken, or proposed to be taken, to remedy them; and (f) ensure that any proposed steps in a report are taken, provided they are appropriate.<sup>70</sup> In *Morocco*, the regulations on mining provide that detailed inspections of each well where extraction takes place must be carried out at least once a week by a competent agent recording the results in a special register, and that certain appliances and facilities must be carefully inspected every day.<sup>71</sup>

230. *Sufficient ventilation.* The fundamental importance of sufficient ventilation in the prevention of underground explosions and fires was highlighted during the preparatory work for the instruments, together with the importance of high ventilation rates in the prevention of occupational diseases linked to certain gases originating from blasting, diesel engines or emanating from rock strata.<sup>72</sup> Accordingly, Article 7(f) of the Convention provides that employers shall take measures to ensure adequate ventilation for all underground workings, and numerous countries reflect this obligation in their legislative provisions.<sup>73</sup> Paragraph 15 of Recommendation No. 183 adds that appropriate ventilation should: eliminate or minimize the risk of explosions; ensure adequate working conditions; and comply with national standards on dusts, gases, radiation and climatic conditions. For example, in the *Russian Federation*, safety regulations in coal mines require specific controls of the mine atmosphere, the results of which are recorded in a ventilation journal, including an assessment of the air quality and monitoring of methane concentrations.<sup>74</sup> In *Cuba*, the mine operator is required to keep up-to-date fundamental documents, including a general plan of ventilation in underground mines.<sup>75</sup>

<sup>67</sup> Sections 91(1), 92, 95 and 97: Security in Mining Resolution No. 158/2014.

<sup>68</sup> Section 39 of Vizierial ruling of 18 February 1938 establishing general regulations on the exploitation of mines other than fuel mines.

<sup>69</sup> See, for example, *Poland* – CEACR, Convention No. 176, direct request, published in 2015; and *United States* – CEACR, Convention No. 176, direct request, published in 2010.

<sup>70</sup> Section 14 of the Mines Regulations No. 3248, 2014.

<sup>71</sup> Sections 48, 87, and 97 of Vizierial ruling of 18 February 1938 establishing general regulations on the exploitation of mines other than fuel mines.

<sup>72</sup> ILO: *Safety and Health in Mines*, Report V(1), ILC, 81st Session, Geneva, 1994, pp. 11 and 16.

<sup>73</sup> For example, *Brazil, Chile, Colombia, Cuba, Ecuador, Finland, Italy, Morocco, Peru* and *Russian Federation*.

<sup>74</sup> Section 10 of Order No. 550 on Safety Regulations in Coal Mines, of 19 November 2013.

<sup>75</sup> Section 8 of Security in Mining Resolution No. 158/2014.



231. *Drawing up and implementing an operating plan and procedures.* In zones susceptible to particular hazards,<sup>76</sup> employers are required to draw up an operating plan and procedures, as provided in Article 7(g) of the Convention. The Committee noted that several countries have implemented this provision in national legislation.<sup>77</sup> For example, in *New Zealand*, the senior site executive, appointed by the mining operator, must carry out an appraisal of the mining operation to identify the principal hazards and ensure there is a management plan for each principal hazard identified, which could create a risk of multiple fatalities in a single accident or a series of recurring accidents at the mining operation. The general purposes of principal hazard management plans are to identify the nature of such hazards and set out measures for their effective management. The plans are reviewed at least every two years and audited every three years by an independent external person engaged and paid by the mine operator.<sup>78</sup> In *Peru*, the mine operator is required to prepare every year, or every time there is a change in the system, and keep up to date a plan of the risks, which includes the annual programme for occupational safety and health.<sup>79</sup>

232. *Spread of fires and explosions.* Finally, pursuant to Article 7(h) of the Convention, employers are required to take measures and precautions to prevent, detect and combat the start and spread of fires and explosions. The national legislation in several countries reflects this provision of the Convention.<sup>80</sup> For example, in *Morocco*, operators are required to take the necessary precautions to combat any outbreak of fire quickly and efficiently. This includes ensuring that instructions are posted in each worksite indicating the extinguishing and rescue equipment, and the manoeuvres to be performed in case of fire. The instructions prescribe periodic tests to confirm that the equipment is in good condition and to ensure that staff are capable of using it.<sup>81</sup>

233. *Recognizing the numerous risks present in the mining sector, the Committee recalls that clear responsibilities for preventative and other measures assigned to the employer are necessary in order to ensure the conditions for safe operation and a healthy working environment.*

## Agriculture

### **Box 3.6** **Duties of employers in agriculture**

Article 6(1) of Convention No. 184 provides that:

In so far as is compatible with national laws and regulations, the employer shall have a duty to ensure the safety and health of workers in every aspect related to the work.

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<sup>76</sup> Paragraph 16 of Recommendation No. 183 identifies certain hazards in this respect.

<sup>77</sup> See for example, *Botswana* – CEACR, Convention No. 176, direct request, published in 2011; and *Spain* – CEACR, Convention No. 176, direct request, published in 2011. See also *Brazil*, *New Zealand*, *Peru* and *Russian Federation*.

<sup>78</sup> Sections 65–91 of the Health and Safety in Employment (Mining Operations and Quarrying Operations) Regulations, 2016.

<sup>79</sup> Supreme Decree No. 055-2010-TR approving the Occupational Safety and Health Regulation and other complementary measures in mining.

<sup>80</sup> For example, *Brazil*, *Finland*, *Morocco*, *Peru* and the *Russian Federation*.

<sup>81</sup> Section 21 of Vizierial ruling of 18 February 1938 establishing general regulations on the exploitation of mines other than fuel mines.

234. Convention No. 184 provides that employers have the duty to ensure the safety and health of workers in every aspect related to the work, in so far as is compatible with national laws and regulations. From this duty flows the responsibility to carry out appropriate risk assessments and adopt measures to ensure that all agricultural activities, workplaces, machinery, equipment, chemicals, tools and processes under the employer's control are safe and comply with prescribed safety and health standards.<sup>82</sup> Recommendation No. 192 adds that measures taken by the employer should include: OSH services; risk assessment and management measures; measures to deal with accidents and emergencies; procedures for the recording and notification of accidents and diseases; appropriate measures to protect persons at or around an agricultural site and the general environment from risks which may arise from the agricultural activity concerned; and measures to ensure that the technology used is adapted to climate, work organization and working practices.<sup>83</sup>

235. The phrase “in so far as is compatible with national laws and regulations” was inserted during the second discussion at the Conference during the development of Convention No. 184, and was subject to vigorous debate. Several governments felt that a qualifying phrase was necessary to reflect differences in national legal systems, and this phrase was inserted after the Committee rejected an amendment to insert the phrase “as far as is reasonably practicable” in Article 6 of the Convention.<sup>84</sup> The heterogeneity characterizing the sector and the diversity of national approaches are indeed reflected in the flexible nature of the Convention.

236. Among ratifying States, the Committee has not noted any particular difficulties with respect to the application of Article 6(1) of the Convention, and this is likely linked to the general nature of the obligation outlined in this provision. Certain countries indicated in their reports that the general obligations of employers with regard to OSH apply equally to the agricultural sector.<sup>85</sup> Most countries that indicated that there are specific obligations for employers in agriculture referred to obligations related to the use of pesticides,<sup>86</sup> while certain countries referred to responsibilities relating to the operation of farm equipment.<sup>87</sup> Some countries also reported other specific obligations of employers in agriculture established under national legislation. For example, in *Austria*, employers in the agricultural sector have the obligation to ensure the safety and health of workers, take all necessary measures to protect the lives of workers and prevent occupational hazards, including informing and training workers on occupational hazards, using adequate notices on risks that cannot be avoided by taking other measures and other specific obligations in case of serious and imminent danger.<sup>88</sup> In *Chile*, employers are required to ensure the safety of the private transportation of seasonal agricultural workers.<sup>89</sup>

**237. *Having regard to the fact that Article 6 of the Convention is formulated in broad terms to accommodate different national situations, and while recognizing the diversity***

<sup>82</sup> Article 7(a) of Convention No. 184.

<sup>83</sup> Paragraph 5 of Recommendation No. 192.

<sup>84</sup> ILO: *Record of Proceedings* No. 15, Report of the Committee on Safety and Health in Agriculture, ILC, 89th Session, Geneva, 2001, paras 113–123.

<sup>85</sup> For example, *Germany, Iceland, Namibia and Norway*.

<sup>86</sup> For example, *Chile, Ecuador, Egypt, Georgia, Indonesia, Mexico and Poland*.

<sup>87</sup> For example, *Cuba, Mexico and Poland*.

<sup>88</sup> Sections 76(a)(1) and (5), and 84 of the Agricultural Labour Act No. 287/1984, as amended on 4 September 2012.

<sup>89</sup> Decree No. 20 of 20 June 2001.

*in national approaches to legislation addressing safety and health in the agricultural sector, the Committee underlines the importance of the clear attribution to employers of duties to ensure the safety and health of workers in every aspect related to their work in so far as is compatible with national laws and regulations.*

## Employers' obligations in situations of danger to the safety and health of workers

### **Box 3.7**

#### **Duties of employers in situations of danger**

Article 12(2) of Convention No. 167 provides that:

Where there is an imminent danger to the safety of workers the employer shall take immediate steps to stop the operation and evacuate workers as appropriate.

Article 7(i) of Convention No. 176 provides that:

Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control, and in particular:

...

- (i) ensure that when there is serious danger to the safety and health of workers, operations are stopped and workers are evacuated to a safe location.

Article 7(c) of Convention No. 184 provides that:

In order to comply with the national policy referred to in Article 4 of the Convention, national laws and regulations or the competent authority shall provide, taking into account the size of the undertaking and the nature of its activity, that the employer shall:

...

- (c) take immediate steps to stop any operation where there is an imminent and serious danger to safety and health and to evacuate workers as appropriate.

238. Related to the right of workers to remove themselves from situations of danger, as defined in each sectoral Convention,<sup>90</sup> employers have a corresponding duty in such situations to stop operations and evacuate workers. Convention No. 167 was the first ILO instrument to provide that employers have an obligation to stop operations and evacuate workers in situations of imminent danger. While earlier instruments had referred to the protection of workers from retaliation where they removed themselves from situations of imminent danger, Convention No. 167 introduced an important obligation on employers in such situations. With slight modifications, a similar duty was later included in Conventions Nos 176 and 184.

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<sup>90</sup> See the below paragraphs 294–298 on “Right of workers to remove themselves from danger”.

**Box 3.8**  
**Situations of danger giving rise to employers' duties  
as defined in the three sectoral Conventions**

Convention No. 167 refers to situations of imminent danger to a worker's health, while Convention No. 176 refers to a danger that is serious (though not necessarily imminent) to safety and well as health. Convention No. 184 refers to both a serious and imminent danger to a worker's safety and health. Both Conventions Nos 167 and 184 require that the employer take immediate steps in such situations and evacuate as appropriate, while Convention No. 176 requires that employers take measures to ensure that the operations are stopped and workers evacuated to a safe location. This reflects the distinct nature of mining, where accidents are often a series of events triggered by an initial incident.

239. With respect to the application of these provisions of the Conventions in practice, certain countries assign a general obligation in this regard to employers in all sectors.<sup>91</sup> For example, the OSH legislation in *Kenya* requires the occupier (which includes the employer) to take immediate steps to stop any operation or activity where there is an imminent and serious danger to safety and health and to evacuate all persons employed as appropriate.<sup>92</sup> However, obligations concerning the stoppage of work and evacuation are often only specified with respect to employers in certain sectors, and particularly in construction<sup>93</sup> and mining.<sup>94</sup>

240. The Committee notes the observations from certain workers' organizations concerning the absence of this obligation in law. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that, in the *United States*, while employers are required to protect workers from recognized hazards that are causing or likely to cause death or serious bodily harm, there is no explicit requirement for employers to stop work in these situations. The Confederation of Gabonese Free Trade Unions (CGSL) indicated that the legislation in *Gabon* does not clearly outline the obligation of employers in this respect.

241. Moreover, the Committee notes that several ratifying States have experienced difficulties in implementing the respective Articles of the Conventions,<sup>95</sup> and certain governments reported that their national legislation does not contain provisions reflecting this duty. In addition, several governments reported on the duty of employers to take measures in dangerous situations pursuant to an order of the relevant ministry or the labour inspectorate,<sup>96</sup> but not in all dangerous situations. Other governments referred to legislative provisions outlining the obligations of employers in the event of an occupational accident,<sup>97</sup> rather than an obligation to take measures in dangerous situations

<sup>91</sup> For example, *Dominican Republic, France, Kenya, Nicaragua, Romania and Spain*.

<sup>92</sup> Section 6(5) of the Occupational Safety and Health Act 2007.

<sup>93</sup> For example, *Panama* and the *Russian Federation*.

<sup>94</sup> For example, *Brazil, Colombia, Mexico* and the *Russian Federation*.

<sup>95</sup> *Burkina Faso* – CEACR, Convention No. 184, direct request, published in 2015; *Czech Republic* – CEACR, Convention No. 167, direct request, published in 2011; *Guatemala* – CEACR, Convention No. 167, direct request, published in 2016; *Lebanon* – CEACR, Convention No. 176, direct request, published in 2015; and *Ukraine* – CEACR, Convention No. 184, direct request, published in 2016.

<sup>96</sup> See, for example, *Antigua and Barbuda, Ethiopia and Morocco*.

<sup>97</sup> For example, *Chile, Costa Rica and Cuba*.

prior to the occurrence of an accident. Further, some countries appear to only assign parts of this duty to employers, with the requirement to stop operations covering circumstances that are more circumscribed than those set out in the Conventions. For example, legislation in certain countries limits the circumstances in which operations must be stopped and workers evacuated to situations that are not only imminent and serious, but also “unavoidable”.<sup>98</sup> In other countries, employers are only under the obligation to stop work operations, but not specifically to evacuate workers.<sup>99</sup>

**242. *In this respect, the Committee clarifies that, under Conventions Nos 167, 176 and 184, employers have the duty to stop the operation and evacuate workers, not only in unavoidable situations or circumstances in which the competent authority has ordered measures to be taken, but in all situations of imminent and serious danger.***<sup>100</sup> ***The Committee underlines that these provisions refer to the obligation to take measures before (rather than after) the occurrence of an accident, and that the appropriate implementation of these obligations is indispensable for the prevention of workplace accidents.***

## Two or more employers undertaking activities at one work site: Coordination and cooperation

243. Situations in which two or more employers undertake activities at the same site are addressed in Conventions Nos 167, 176 and 184, with each Convention prescribing requirements based on the specificities of each sector. This issue is also addressed in Article 17 of Convention No. 155, which requires collaboration between employers in applying the requirements of the Convention. In this regard, the Committee noted in its 2009 General Survey that the issue is specifically regulated in many countries,<sup>101</sup> by providing for the allocation of joint responsibility between the different employers within one undertaking,<sup>102</sup> allocating responsibilities through written agreements,<sup>103</sup> or requiring the establishment of joint committees with representatives of employers simultaneously engaged in activities in a workplace and of their workers.<sup>104</sup> The Committee notes the indication by numerous governments that their national legislation contains provisions, general or sector-specific, requiring cooperation or coordination in situations where two or more employers operate at the same site.<sup>105</sup>

244. Certain workers’ and employers’ organizations also provided information on such collaboration in practice. The Australian Chamber of Commerce and Industry (ACCI)

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<sup>98</sup> See, for example, *Albania, Romania and Turkey* (Act No. 6331 on Occupational Safety and Health, dated 20 June 2012).

<sup>99</sup> For example, *Serbia* (Section 15 of the Law on Occupational Safety and Health).

<sup>100</sup> As explained above, imminent danger under Convention No. 167, serious danger under Convention No. 176 and serious and imminent danger under Convention No. 184.

<sup>101</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 175. At that time the Committee referred to *Algeria, Australia, Austria, Belgium, Brazil, Canada, Cyprus, Greece, Hungary, Ireland, Italy, Mauritius, Portugal, Poland, Romania, Senegal, Spain, Thailand and United Kingdom*.

<sup>102</sup> *ibid.*, para. 175. At that time the Committee referred to *Belarus, El Salvador, Nicaragua, Panama, Turkey and Uruguay*.

<sup>103</sup> *ibid.*, para 176. At that time the Committee referred to *Belarus, China, Cuba and Poland*.

<sup>104</sup> *ibid.*, para. 177. At that time the Committee referred to *Islamic Republic of Iran, Tunisia and Turkey*.

<sup>105</sup> For example, *Belgium, Finland, Iceland, Republic of Korea, New Zealand, Norway, Panama, Romania, Senegal, South Africa, Sweden and United Kingdom*.

indicated that in shared workplaces in *Australia*, the person conducting a business or undertaking has to consult, cooperate and coordinate activities with all other persons who have a health or safety duty in relation to the same matter, so far as is reasonably practicable, and that in shared workplaces where there are multiple persons conducting a business or undertaking, a master emergency plan can be prepared for use by all relevant duty holders.

245. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that in the *United States* the OSH Administration has a multi-employer worksite policy under which staffing agencies and host employers may be considered joint employers and held jointly responsible for safety and health at the worksite. Numerous enforcement actions have been taken where both the temporary staffing agency and the host employer have been held responsible for safety and health. Advisory guidelines are being updated, which include provisions on implementing a safety and health programme at multi-employer worksites, including worksites where there are contractors, subcontractors and/or temporary employees, and the union hopes that these guidelines will help to establish better practices for addressing safety and health at multi-employer worksites.

246. The following paragraphs<sup>106</sup> examine the duties of employers when there are two or more employers undertaking activities in construction, mining and agriculture, as well as cases where these actors include contractors and subcontractors, focusing on the construction and mining sectors.

## Construction

### **Box 3.9** **Two or more employers undertaking activities** **simultaneously at one construction site**

Article 8(1) of Convention No. 167 provides that:

1. Whenever two or more employers undertake activities simultaneously at one construction site:

- (a) the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, shall be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations, for ensuring compliance with such measures;
- (b) in so far as is compatible with national laws and regulations, where the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, is not present at the site, he shall nominate a competent person or body at the site with the authority and means necessary to ensure on his behalf co-ordination and compliance with the measures, as foreseen in subparagraph (a) above;
- (c) each employer shall remain responsible for the application of the prescribed measures in respect of the workers placed under his authority.

247. Due to the specific characteristics of the sector, construction sites featuring two or more employers are common.<sup>107</sup> Accordingly, OSH in the construction industry is closely linked to the manner in which the relations among the different parties are established and

<sup>106</sup> Paragraphs 247 to 272.

<sup>107</sup> For example, the Canadian Labour Congress (CLC) reported that multiple employers often undertake activities simultaneously on construction sites in *Canada*. The General Union of Workers (UGT) indicated that in *Spain* employers create commissions for their coordination in construction.

their functions detailed.<sup>108</sup> The IOE highlighted in this respect that construction comprises a complex set of related operations, and that due to the complicated multi-trade system, which takes place on a construction site, safety and health becomes a primary concern.

248. Convention No. 167 provides that, when two or more employers are undertaking activities simultaneously at one construction site, either the person with actual control or with primary responsibility over activities must be responsible for coordinating OSH measures, and for ensuring compliance with such measures. When the principal contractor (or person with primary responsibility for overall construction activities) is not present at the site, the Convention requires the nomination of a competent person or body to ensure coordination and compliance on the latter's behalf.

249. The Convention provides that the nominated persons must have the authority and means necessary to ensure the coordination of, and compliance with, prescribed safety and health measures, which implies that nomination in itself is not sufficient.

250. The Committee has noted that the legislation in several countries reflects the obligations established in Article 8(1) of the Convention.<sup>109</sup> For example, the Committee has noted with satisfaction that in *Sweden*, a person who commissions building or civil engineering works must appoint a building environment coordinator for the planning and design, as well as for the conduct of the works. The coordinator is responsible for coordinating work on preventing risks of occupational illness and accidents at the workplace to ensure that the parties engaging in activities at the workplace systematically apply the regulations and a work environment plan.<sup>110</sup>

251. European Union Member States generally follow the provisions of Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, which requires the appointment of a coordinator for safety and health matters for any construction site on which more than one contractor is present.<sup>111</sup> Numerous other countries also require the appointment of a coordinator.<sup>112</sup> For example, the rules on the minimum safety and health requirements in *Iceland* provide that one or more coordinators for safety and health matters have to be appointed when there is more than one contractor at the worksite, and a safety and health plan must be drawn up if there are more than ten employees or if the construction site is considered dangerous. Coordination should not affect the responsibility of individual employers.<sup>113</sup> Similarly, in *Senegal*, the site manager has to appoint one or more OSH coordinators for a construction site where there is more than one contractor.<sup>114</sup>

252. The legislation in several countries requires only a certain level of collaboration in the organization of OSH activities and cooperation in the implementation of safety and

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<sup>108</sup> ILO: *Inspecting occupational safety and health in the construction industry* (International Training Centre, 2009), p. 37.

<sup>109</sup> See, for example, *Denmark* – CEACR, Convention No. 167, direct request, published in 2007; *Panama* – CEACR, Convention No. 167, direct request, published in 2016; *Sweden* – CEACR, Convention No. 167, direct request, published in 2009; and *Uruguay* – CEACR, Convention No. 167, direct request, published in 2015.

<sup>110</sup> Sections 6–7 of the Work Environment Act (1977:1160), 1977.

<sup>111</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 175. For example, *Belgium, Finland, France, Poland, Sweden and United Kingdom*.

<sup>112</sup> For example, *Iceland, Senegal and the former Yugoslav Republic of Macedonia*.

<sup>113</sup> Section 3(1) of Rules No. 547/1996 on the minimum safety and health requirements at temporary or mobile constructions sites.

<sup>114</sup> Sections 1–5 of Decree No. 2006-1249 of 15 November 2006 fixing the minimum safety and health requirements for temporary or mobile construction sites.

health requirements between employers present at the same work site.<sup>115</sup> The legislation in certain countries establishes an obligation for employers to inform each other about occupational hazards and the measures taken to prevent them,<sup>116</sup> while in other countries collaboration is facilitated through the creation of a consultation body concerning safety and health.<sup>117</sup>

**253. Many construction sites are characterized by work being undertaken by numerous different parties, including primary contractors, subcontractors and intermediaries. It is therefore essential that, in accordance with the Convention, one party (the principal contractor or person with actual control for overall construction activities) is responsible for coordinating safety and health measures and for ensuring compliance with such measures, with a view to preventing occupational accidents and diseases.**

## Mining

**Box 3.10**  
**Two or more employers undertaking activities  
at one mine at the same time**

Article 12 of Convention No. 176 provides that:

Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations. This shall not relieve individual employers from responsibility for the implementation of all measures concerning the safety and health of their workers.

254. Convention No. 176 assigns the primary responsibility for safety of operations to the employer in charge of the mine, and requires this employer to coordinate the implementation of the necessary safety and health measures. This can be particularly important in mining, as the central employer may be the only constant in a changing work environment with knowledge of previous workings and the specificities of the site. In this respect, the Committee has noted that several countries apply Article 12 of the Convention in their national legislation.<sup>118</sup> For example, in *Peru*, the Committee has noted with interest that the legislation establishes the obligation of the employer in charge of the facilities in which the activities are performed to ensure compliance with OSH standards by contractors, subcontractors and special service enterprises undertaking activities in mines.<sup>119</sup> In *Iceland*, the mining regulations provide that, where workers from several undertakings are present at the same workplace, each employer shall be responsible for all matters under his control. The employer who is in charge of the workplace shall coordinate the implementation of all measures concerning the safety and health of workers and shall state, in the safety and health document, the objectives of such coordination and the

<sup>115</sup> For example, *Angola, Burkina Faso, Cameroon, El Salvador, France, Guinea, Republic of Moldova, Niger, Romania and Uganda*.

<sup>116</sup> For example, *Bahrain, Bulgaria, Burkina Faso, Mauritius, Poland, Portugal, Romania, South Africa, Switzerland and United Kingdom*.

<sup>117</sup> For example, *Republic of Korea*.

<sup>118</sup> See *Philippines* – CEACR, Convention No. 176, observation, published in 2015; *Peru* – CEACR, Convention No. 176, direct request, published in 2015; and *Ukraine* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>119</sup> See *Peru* – CEACR, Convention No. 176, direct request, published in 2015.



measures and procedures for its implementation.<sup>120</sup> In *Mozambique*, mining operations must be preceded by an OSH plan that identifies the person responsible for coordinating the implementation of OSH measures of other companies operating at the same time, without reducing the responsibility of each employer towards the workers.<sup>121</sup>

255. In some countries, the national legislation only requires collaboration between several employers undertaking activities at the same mine in the implementation of measures concerning the safety and health of workers, but does not attribute primary responsibility to one person in particular.<sup>122</sup>

***256. In light of the particular risks faced in the sector, in accordance with Convention No. 176, the employer in charge of a mine shall be held primarily responsible for the safety of the operations, and must coordinate all measures concerning safety and health. This does not relieve individual employers from their duties, as they must remain responsible for the implementation of all measures concerning the safety and health of their workers.***

## Agriculture

**Box 3.11**  
**Two or more employers undertaking activities  
at one agricultural workplace**

Article 6(2) of Convention No. 184 provides that:

National laws and regulations or the competent authority shall provide that whenever in an agricultural workplace two or more employers undertake activities, or whenever one or more employers and one or more self-employed persons undertake activities, *they shall cooperate in applying the safety and health requirements*. Where appropriate, the competent authority shall prescribe general procedures for this collaboration.

257. In an agricultural workplace where two or more employers undertake activities, Convention No. 184 requires employers to cooperate in applying safety and health requirements. This provision mirrors Article 17 of Convention No. 155 but, *in contrast with* Article 8(1)(c) of Convention No. 167 and Article 12 of Convention No. 176, does not mention the responsibility of individual employers. Convention No. 184 also requires collaboration among employers undertaking activities non-simultaneously. This was clarified during the preparatory work for the Convention, as the relationship of two or more employers in agriculture is often a sequence of interdependent activities that do not occur literally at the same moment.<sup>123</sup>

258. The obligation for cooperation among employers in applying safety and health requirements is usually contained in general legislation, rather than legislation specifically regulating the agricultural sector.<sup>124</sup> Article 6(2) of Convention No. 184 provides for the possibility, where appropriate, for the prescription of collaboration measures by the competent authority. This allows flexibility, depending on the type of work, and the

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<sup>120</sup> Section 3(3) of Rules No. 552/1996 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries.

<sup>121</sup> Decree No. 61/2006. Technical Safety Regulations and Health in Geological Mining Activities.

<sup>122</sup> See *Albania* – CEACR, Convention No. 176, direct request, published in 2016. See also, for example, *Republic of Korea*.

<sup>123</sup> ILO: *Provisional Record* No. 15, Report of the Committee on Safety and Health in Agriculture, ILC, 89th Session, Geneva, 2001, paras 134–137.

<sup>124</sup> For example, as reported by the Governments of *Burkina Faso* and *Luxembourg*.

preparatory work referred in this regard to the variety of activities at agricultural undertakings, such as upland cropping, non-industrial forestry industry, aquaculture and animal husbandry.<sup>125</sup> However, with respect to the form of this cooperation, the Committee has emphasized in the past that legislative provisions requiring only joint liability in the case of a breach or accident are not sufficient to give effect to Article 6(2) of the Convention. The Committee considers that the duty to cooperate in applying safety and health requirements goes beyond joint liability and requires a proactive approach to collaboration with a view to preventing the occurrence of accidents.<sup>126</sup>

## Duties of contractors and subcontractors

259. Situations where there is more than one employer at a workplace can arise through multiple contractors and subcontractors working at the same enterprise. In many countries, the mining and construction sectors are characterized by such multi-contractor workplaces. In this regard, both Convention No. 167 and Convention No. 176 provide that the obligations of the employer can apply, as the context requires, to the principal contractor, contractor or subcontractor. The assignment of the obligations of employers to subcontractors acting as employers is essential for the effective implementation of a system of defined rights to ensure safe and secure working conditions in these sectors.

260. Several countries indicated in their reports that the same obligations and responsibilities of employers with regard to OSH apply to contractors and subcontractors,<sup>127</sup> and in some countries this is explicitly reflected in the national legislation.<sup>128</sup> For example, in *Guatemala*, every employer or his representative, intermediary, supplier, contractor or subcontractor, and other companies, are required to adopt and implement safety and health measures to protect the life and health of their workers in the workplace.<sup>129</sup> In *Cambodia*, contractors are required to observe labour provisions in the same manner as an ordinary employer.<sup>130</sup>

261. In other countries, it is the employers' responsibility to ensure that contractors and subcontractors meet their obligations with regard to OSH.<sup>131</sup> For example, in *Nicaragua*, contractors and subcontractors must comply with safety and health provisions in relation to their workers, and it is the obligation of the employer who has hired them to ensure compliance by such contractors and subcontractors.<sup>132</sup> In *Chile*, employers must monitor compliance with OSH rules by contractors or subcontractors. To this end, employers must implement a management system for safety and health at work for all workers involved, independent of their specific employment relationship, when there are more than 50 workers overall. To implement this management system, the principal employer should develop specific regulations for contractors and subcontractors, including at least the coordination of prevention activities between the different employers, as well as

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<sup>125</sup> ILO: *Safety and Health in Agriculture*, Report IV(2A), ILC, 89th Session, 2001, pp. 29–30.

<sup>126</sup> *Argentina* – CEACR, Convention No. 184, direct request, published in 2012.

<sup>127</sup> For example, *Burkina Faso, Estonia, Hungary, Iceland, Indonesia, Kenya, Lithuania, Mali, Mauritania, Morocco and Panama*.

<sup>128</sup> For example, *Cambodia, Guatemala and Nicaragua*.

<sup>129</sup> Section 4 of Government Agreement 229-2014.

<sup>130</sup> Section 47 of KRAM of 13 March 1997 on the Labour Law.

<sup>131</sup> For example, *Chile, Namibia and Nicaragua*.

<sup>132</sup> Sections 18(9) and 33 of the General Act on Safety and Health at Work No. 618, of 19 April 2007; sections 8–9 of Act No. 185 issuing the Labour Code, of 5 September 1996.

mechanisms to verify compliance by contractors and subcontractors, and sanctions.<sup>133</sup> In *Namibia*, an employer who has entered into an agreement with a contractor to perform certain tasks has to ensure that the contractor complies with the regulations relating to the safety and health of workers.<sup>134</sup>

262. A number of workers' organizations provided information on the impact of contracting and subcontracting on OSH conditions. The Australian Council of Trade Unions (ACTU) indicated that in *Australia* subcontractors rarely adhere to all the provisions of OSH laws, including those relating to consultation, training, representation, supervision and the provision of personal protective equipment. The Confederation of National Trade Unions (CSN) indicated that, with respect to the province of Quebec, *Canada*, the legislation is not adapted to the protection of workers sent to perform work for another employer, including under a subcontracting agreement, and that these workers are often posted to perform dangerous work for which they do not have appropriate training. The Single Confederation of Workers of Colombia (CUT) indicated that, although the legislation in *Colombia* provides that the obligations of the employer apply to contractors and subcontractors, it is not frequently implemented. The Confederation of Workers of Argentina (CTA Autonomous) emphasized that the legislative framework in *Argentina* allows for the subcontracting without imposing any responsibility on the principal contractor for ensuring compliance by subcontractors with safety and health regulations.

263. The Committee recognizes that subcontracting can present a challenge in terms of ensuring compliance with OSH obligations, and ultimately achieving a safe and secure working environment. *It recalls that the arrangements in place for two or more employers undertaking activities at the same worksite should apply to situations of multiple contractors and subcontractors. As noted in the 2009 General Survey, the task of ensuring that an adequate level of safety and health is maintained at worksites, involving several contractors of all sizes and trades, requires the establishment of effective mechanisms for collaboration, coordination and communication, as well as the definition of the respective duties and responsibilities of each of the actors on the site.*<sup>135</sup> *In this regard, the Committee emphasizes that contracting and subcontracting arrangements should not prejudice the discharge of the duties of employers and workers and the enjoyment of their rights. It encourages governments to examine closely what measures could be taken to ensure that safety and health requirements are met in sectors and workplaces characterized by multi-contracting and subcontracting. This could include measures to mandate or promote the coordination of safety and health activities at the level of the enterprise and clear communication in this regard, and steps to ensure compliance by contractors and subcontractors with workplace OSH procedures and arrangements.*

## Construction

264. Beyond the parties usually involved in a construction project, such as the owner, designer and constructor, the industry is characterized in many countries by multi-layer subcontracting systems involving contractors, subcontractors, intermediaries and workers. In recent decades, the use of a management system of subcontractors has been a growing tendency. Indeed, in many countries, about 85 per cent of the workers on construction sites

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<sup>133</sup> Section 66bis of Act No. 16744 establishing rules on occupational accidents and diseases, of 23 January 1968.

<sup>134</sup> Section 2(5) of the Labour Act, 1992: Regulations relating to the Health and Safety of Employees at Work, No. 156/1997.

<sup>135</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 174.

are subcontracted workers and the subcontracting chain may involve five levels or more.<sup>136</sup> Considering the specific hazards and risks involved, the size of the construction site, and the number, complexity and type of construction works being carried out simultaneously, this situation poses challenges that may compromise the safety and health of the workers involved.<sup>137</sup>

265. Accordingly, the Committee has noted that a number of countries have taken measures to regulate contracting and subcontracting with regard to OSH in the construction sector.<sup>138</sup> For example, in *Finland*, the Committee noted with interest that the national legislation ensures that enterprises discharge their statutory obligations as contracting parties and employers when concluding contracts on temporary agency work or subcontracted labour.<sup>139</sup> In the *Republic of Korea*, measures have been taken to strengthen accident prevention in the construction sector, through fostering safety management in larger construction sites, including contractor–subcontractor cooperation programmes.<sup>140</sup>

266. Recognizing the growing phenomenon of subcontracting in the construction sector, the national legislation in *Spain* establishes a series of targeted obligations of contractors and subcontractors in the sector in order to prevent OSH risks associated with subcontracting due to insufficient monitoring. These obligations include compliance with the “health and safety plan” prepared for the construction project and with the instructions of the safety and health coordinator during the execution of the work. Contractors and subcontractors are jointly liable for any consequences arising from a breach of the measures envisaged in the plan and the responsibilities of the coordinator of the project do not exempt contractors and subcontractors from their own responsibilities.<sup>141</sup>

267. In *Ecuador*, contractors and subcontractors in construction are jointly responsible for the implementation of the legislation on safety and health for their workers through the development of prevention and protection measures adjusted to the risks inherent to the work or service provided.<sup>142</sup> In *Peru*, contractors and subcontractors in construction must comply with the plan for safety and health at work of the principal contractor and use it as a basis for developing their specific plans for their assigned activities.<sup>143</sup> The Autonomous Confederation of Workers’ Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) underlined that some construction companies in urban areas in the *Dominican Republic* have taken preventive measures, including with respect to contractors and subcontractors, leading to a considerable reduction in the number of occupational accidents. However, the

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<sup>136</sup> ILO: *Inspecting occupational safety and health in the construction industry* (International Training Centre, 2009), pp. 37–38.

<sup>137</sup> *ibid.*, p. 39.

<sup>138</sup> See for example, *Denmark* – CEACR, Convention No. 167, direct request, published in 2007; and *Panama* – CEACR, Convention No. 167, direct request, published in 2016.

<sup>139</sup> *Finland* – CEACR, Convention No. 167, observation, published in 2011. See Act No. 1233/2006, on contractors obligations and liability when work is contracted out, of 22 December 2006.

<sup>140</sup> *Republic of Korea* – CEACR, Convention No. 187, direct request, published in 2015.

<sup>141</sup> Act No. 32/2006 of 18 October 2006 regulating subcontracting in the construction sector; section 11 of Royal Decree No. 1627/1997 of 24 October 1997 establishing rules on minimum safety and health standards in construction.

<sup>142</sup> Section 20 of the Regulations on occupational safety and health in construction and public works, Ministerial Decision No. 174, of 10 January 2008.

<sup>143</sup> Section 9 of the National Building Regulations, 2010.

Union of Forestry Department Employees Sarawak (UFES) in *Malaysia* highlighted that workers engaged on construction sites where the project has been assigned to subcontractors lack protection against OSH risks, and may be compelled to work at night so that the subcontractors can meet their deadlines.

***268. Having regard to the specific risks of the construction industry and the proliferation of subcontracting in the sector,<sup>144</sup> the Committee emphasizes that the promotion of OSH compliance relies heavily on the adequate allocation of responsibilities among the parties involved in a construction project. The Committee, therefore, encourages governments to take measures to regulate the situation of multiple-contracting, including subcontracting, with regard to OSH obligations, and in particular the attribution of responsibility to one party for coordinating safety and health measures and for ensuring compliance with such measures, with a view to preventing occupational accidents and diseases.***

## Mining

269. The use of subcontracting in mining is a common feature of many national mining industries. For example, studies have identified the proliferation of subcontracting in the mining industries in *Lesotho*, *South Africa* and *Zambia*.<sup>145</sup> This high use of subcontracting can have a significant impact in terms of the fragmentation of employers' responsibilities to ensure the safety and health of workers. This came to light in the aftermath of the 2014 coal mining accident in Soma, Turkey, which claimed the lives of 301 workers. A subsequent analysis of the mining industry in Turkey found that the establishment of subcontracting relationships was a mechanism that appeared to be particularly prone to abuse. Contrary to Turkish legislation, it was frequently used as a mechanism to grant worse labour conditions, including the neglect of OSH measures.<sup>146</sup> Since the accident, the Government of *Turkey* has continued to take measures, in collaboration with the ILO, to address the significant deficits identified, including the ratification in 2015 of Convention No. 176.<sup>147</sup>

270. With respect to this safety and health challenge, some countries specifically indicated that their legislation regulates contracting and subcontracting in mining.<sup>148</sup> For example, contractors in *Peru* are required to comply with the applicable regulations and the internal rules on OSH of the mining company for which they provide their services. Contractors have a shared responsibility with the owner of the company to provide workers with training and personal protective equipment. The employer in charge has to ensure compliance with standards by contractors, subcontractors and special service enterprises in the mine and has to lead the development and implementation of an OSH

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<sup>144</sup> ILO: *Inspecting occupational safety and health in the construction industry* (International Training Centre, 2009), pp. 37–38.

<sup>145</sup> ILO: *Non-standard forms of employment. Report for discussion at the Meeting of Experts on Non-Standard Forms of Employment*. Feb. 2015, para. 33. See also, ILO: *Non-standard employment around the world: Understanding challenges, shaping prospects* (Geneva, 2016).

<sup>146</sup> ILO: *Contractual arrangements in Turkey's coal mines. Forms, extents, drivers, legal drivers and impact on OSH*, 2016, p. 63.

<sup>147</sup> *Turkey* – CEACR, Convention No. 155, observation, published in 2016.

<sup>148</sup> For example, *Ecuador*, *Greece*, *Peru* and *United Kingdom*. See also *Brazil* – CEACR, Convention No. 176, direct request, published in 2011.

management system.<sup>149</sup> In this respect, the Committee emphasized the importance of ensuring the implementation of these provisions in practice.<sup>150</sup>

271. The specific risks of significant levels of subcontracting in the sector have also been addressed by national efforts to strengthen enforcement. For example, in *Spain*, a supervision and monitoring campaign was undertaken in mining, and one of its focuses was mines with high levels of subcontracting. As a result of the inspections carried out in recent years by the mining authorities, there has been a decline in the number of accidents in the mining sector.<sup>151</sup>

*272. The Committee stresses that, given the risks and the dynamic nature of the mining sector, the allocation of responsibilities is essential for the effective implementation of OSH measures. While all employers, including contractors and subcontractors, involved in the activities in a mining site have a responsibility to ensure the safety and health of their workers, the employer in charge of the mine maintains primary responsibility and must take measures to coordinate OSH efforts with a view to preventing accidents. Measures in this regard could include mechanisms to ensure that all contractors at a mine are trained on specific hazards and necessary procedures before they operate in the mine.*

### 3. Rights and duties of workers with respect to occupational safety and health

273. Defined rights and duties of workers are essential for OSH. This section examines the rights of workers to a safe and healthy working environment, followed by an examination of specific workers' rights related to OSH, as outlined in the sectoral instruments. This will be followed by an examination of workers' duties.

#### Rights of workers with respect to occupational safety and health

##### Right of workers to a safe and healthy working environment

**Box 3.12**  
**Right of workers to a safe and healthy working environment**

Article 3(2) of Convention No. 187 provides that:

Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

274. For 50 years, the right to safe and healthy working conditions has been internationally recognized as a human right, derived from the inherent dignity of the human person. The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, recognizes the right of everyone to the enjoyment of just and favourable

<sup>149</sup> Sections 51, 52 and 54 of Presidential Decree No. 055-2010-EM approving the Occupational Safety and Health Regulations and other complementary measures in mining, and section 68 of the Act on occupational safety and health, No. 29783, of 19 August 2011.

<sup>150</sup> *Peru* – CEACR, Convention No. 176, direct request, published in 2015.

<sup>151</sup> *Spain* – CEACR, Convention No. 176, direct request, published in 2015.

conditions of work which ensure, in particular, safe and healthy working conditions.<sup>152</sup> In this connection, the Committee on Economic, Social and Cultural Rights (CESCR) has recognized that preventing occupational accidents and disease is a fundamental aspect of the right to just and favourable conditions of work and closely related to other rights set out in the Covenant, in particular the right to the highest attainable level of physical and mental health.<sup>153</sup> The CESCR has interpreted the right to health, as defined in article 12 of the ICESCR, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, including healthy occupational and environmental conditions.<sup>154</sup>

275. Convention No. 187 is the first international labour standard to define a safe and healthy working environment as a right. The Convention requires the promotion and advancement of this right, and identifies that a key component of a national safety and health culture is the respect of this right at all levels.<sup>155</sup> The Convention's main objective is to promote the continuous improvement of OSH, and it affirms that the advancement of the right of workers to a safe and healthy working environment is essential in achieving this goal.

276. The Committee welcomes the fact that several countries have enshrined the right to a safe and healthy working environment in their national constitutions. For example, this right is reflected in the constitutions of *Angola*,<sup>156</sup> *Azerbaijan*, *Bulgaria*,<sup>157</sup> *Mozambique* and *Ukraine*. The Constitution of *Poland* specifies that everyone shall have the right to safe and healthy conditions of work and that the method for implementing this right and the obligations of employers shall be specified by statute. Several countries have also identified that the right to a safe and healthy working environment is a general principle underlying the legislative framework in the country on labour issues. For example, the labour codes of the *Republic of Moldova* and the *Russian Federation* recognize that one of the main principles of the regulation of labour relations is to safeguard the right of every worker to fair working conditions, including safety and health requirements. The Labour Code of *Cuba* provides that a fundamental principle of labour law is the right of workers to OSH, through the adoption of measures for the prevention of occupational accidents and diseases, and the Labour Code of *Kazakhstan* identifies the right to working conditions meeting safety and health requirements as a main principle of the Code. Moreover, the legislation in *Spain* on risk prevention provides that workers are entitled to effective protection in relation to safety and health at work.<sup>158</sup>

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<sup>152</sup> Preamble and Article 7(b) of the International Covenant on Economic, Social and Cultural Rights, 1966. Recognition of the right to a safe and healthy working environment as a fundamental human right has been advanced by declarations adopted at the World Congress on Safety and Health at Work. The Seoul Declaration on Safety and Health at Work of 2008 recalls that the right to a safe and healthy working environment should be recognized as a fundamental human right, and this was reiterated in the Istanbul Declaration on Safety and Health of 2011.

<sup>153</sup> General Comment No. 23 (2016) on the right to just and favourable conditions of work (Article 7 of the International Covenant on Economic, Social and Cultural Rights) (8 Mar. 2016) (E/C.12/GC/23).

<sup>154</sup> General Comment No. 14 (2000) on the right to the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (11 Aug. 2000) (E/C.12/2000/4)

<sup>155</sup> Articles 1(d) and 3(2) of Convention No. 187.

<sup>156</sup> The Constitution of *Angola* specifies that all workers shall have a right to health and safety at work in accordance with the law.

<sup>157</sup> The Constitution of *Bulgaria* specifies that workers and employees shall be entitled to healthy and non-hazardous working conditions, in accordance with the conditions and procedures established by law.

<sup>158</sup> Act No. 31/1995 on the prevention of occupational risks.

*277. The right of workers to a safe and healthy working environment is the cornerstone of OSH, and the Committee recalls that countries can advance this right through various mechanisms and processes. The continuous improvement of OSH can be promoted by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme,<sup>159</sup> and these concepts constitute essential tools for the tripartite constituents in the promotion and advancement of the right of workers to a safe and healthy working environment.*

278. Convention No. 187 does not outline specific principles flowing from this overarching right to a safe and healthy work environment. During the Conference discussion on the instrument, an amendment was proposed to set out specific OSH rights in the text, including the right of workers to participate in the area of OSH, to be informed and trained on hazards and risks and to remove themselves from a dangerous work situation. However, after considering that these rights were already contained in other Conventions, the proposed amendment was withdrawn.<sup>160</sup> The next paragraphs<sup>161</sup> examine the specific rights of workers relating to OSH, as outlined in Conventions Nos 167, 176 and 184, and in particular the right to participation in OSH measures, the right to be informed concerning OSH risks and the right to remove themselves from situations of danger.

#### Right of workers to participate in measures relating to safety and health

##### **Box 3.13** **Right of workers to participate in** **OSH measures in the workplace**

Article 10 of Convention No. 167 provides that:

National laws or regulations shall provide that workers shall have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

Article 5(2)(f) of Convention No. 176 provides that:

Such national laws and regulations shall provide for:

...

- (f) the establishment of effective procedures to ensure the implementation of the rights of workers and their representatives to be consulted on matters and to participate in measures relating to safety and health at the workplace.

Article 8(1)(b) of Convention No. 184 provides that:

1. Workers in agriculture shall have the right:

...

- (b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees;

...

<sup>159</sup> Article 2(1) of Convention No. 187.

<sup>160</sup> ILO: *Record of Proceedings* No. 20. Report of the Committee on Safety and Health, ILC, 95th Session, Geneva, 2006, paras 109–110.

<sup>161</sup> Paragraphs 279 to 298.



279. While the provisions relating to workers' participation in OSH measures differ in the three sectoral Conventions, each outline the right of workers with respect to such participation. Convention No. 167 refers to both the right and duty of workers to participate in ensuring safe working conditions and to express views on the working procedures adopted affecting safety and health. Convention No. 176 links the right of workers to be consulted on OSH measures with the right to participate, specifying that national laws and regulations shall provide for the establishment of effective procedures to ensure these rights. Convention No. 184 refers to the right to participate in the application and review of safety and health measures. Convention No. 167 specifies that the right to participate must be provided for in national laws and regulations, while Convention No. 184 provides that the procedures for the exercise of the right shall be established by national laws and regulations, the competent authority, collective agreements or other appropriate means.

280. With respect to the right of workers to participate in OSH measures, the Committee recalls that it noted in its 2009 General Survey that in most countries workers participate in the management of OSH, depending on the size of the undertaking, usually through their OSH representatives on a safety and health committee, but also directly in some cases.<sup>162</sup>

281. The national legislation in several countries provides that workers have the right to participate in measures relating to safety and health. For example, in *Belarus*, the legislation provides that workers have a right to participate in the consideration of matters related to ensuring safe working conditions.<sup>163</sup> Many countries specify the procedures through which this participation takes place. Numerous countries indicated that workers participate through OSH committees.<sup>164</sup> For example, the Government of *Costa Rica* reported that workers have the right to participate in the implementation and review of occupational health measures and actions through OSH committees. In other countries, workers have the right to participate through representatives,<sup>165</sup> including in *Uruguay*, where the national legislation specifies that workers have the right to participate through their representatives in the definition, implementation and review of safety and health measures.<sup>166</sup> Some national legislative provisions explicitly provide that both workers and their representatives have this right. For example, the Occupational Safety and Health Act of *Peru* provides that workers, their representatives and their unions are entitled to examine the factors that affect their safety and health and to propose measures in this regard.<sup>167</sup>

282. In some cases, national legislation permits the participation of workers in the application of safety and health measures, but does not establish a right to participate. For example, in *Cambodia*, the legislation provides that workers may participate in the application and review of safety and health measures.<sup>168</sup> The Committee also notes the indication by the New Zealand Council of Trade Unions (NZCTU) that in practice in *New Zealand* the ability of individual workers to raise health and safety issues is limited in

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<sup>162</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 203.

<sup>163</sup> Section 9 of Act No. 356-Z of 23 June 2008 on occupational safety.

<sup>164</sup> For example, *Belgium*, *Costa Rica*, *Morocco* and *Republic of Korea*. See also paragraphs 191 to 217 on OSH committees.

<sup>165</sup> See, for example *Panama*, *Niger*, *Romania* and *Uruguay*.

<sup>166</sup> Section 12 of Decree No. 321/009, of 9 July 2009.

<sup>167</sup> Section 78 of Act No. 29793 on Occupational Safety and Health, of 19 August 2011.

<sup>168</sup> Section 284 of KRAM of 13 March 1997 on the Labour Law.

many industries by employers' attitudes to worker participation, and that the agricultural industry is largely adverse to meaningful worker participation on safety and health matters. ***The Committee stresses that workers' participation in matters relating to safety and health at the workplace is fundamental and integral to the achievement of a safe and secure working environment. In order to give effect to Conventions Nos 167, 176 and 184, the participation of workers must be guaranteed as a right, and procedures should be established to facilitate the exercise of this right.***

#### *Workers' safety and health representatives*

283. The participation of workers in safety and health measures at the workplace often takes place through safety and health representatives. As noted by the Committee in 2009, in its examination of Article 19(b) of Convention No. 155, the majority of countries have legislation on workers' representatives on occupational safety and health issues.<sup>169</sup> This is reflected in the sectoral instruments. With respect to construction, Recommendation No. 175 provides that measures prescribed for organized cooperation between employers and workers to promote safety and health in construction should include the election or appointment of workers' safety delegates.<sup>170</sup> With respect to mining, Convention No. 176 provides that workers shall have the right to collectively select safety and health representatives, and the instrument outlines the rights of those representatives to represent workers on all aspects of workplace safety and health.<sup>171</sup> With respect to agriculture, Convention No. 184 establishes that workers shall have the right, in accordance with national law and practice, to select safety and health representatives.<sup>172</sup> The information provided by governments on safety and health representatives generally concerns all sectors, with certain governments indicating that there are specific provisions for the mining sector.<sup>173</sup> With respect to systems covering all sectors, several governments indicated that the appointment of a safety and health representative is required in all workplaces with a certain number of workers.<sup>174</sup> Other governments referred to worker representation on health and safety committees,<sup>175</sup> while certain governments reported requirements for both safety representatives and workers' members on bipartite safety committees, depending on the size of the undertaking.<sup>176</sup> For example, in *Iceland*, in undertakings with ten or more employees, employees shall elect a workers' safety representative, and undertakings with more than 50 employees must establish a safety committee composed of two safety representatives elected by workers and two employer representatives.<sup>177</sup> Other countries indicated that, in unionized workplaces, unions may appoint safety representatives from among employees.<sup>178</sup>

<sup>169</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 198.

<sup>170</sup> Paragraph 6 of Recommendation No. 175.

<sup>171</sup> Article 13 of Convention No. 176.

<sup>172</sup> Article 8(1)(b) of Convention No. 184.

<sup>173</sup> For example, *Belgium, Japan, Morocco and Turkey*.

<sup>174</sup> For example, workplaces with ten or more regular workers in *Colombia, Finland, the former Yugoslav Republic of Macedonia and Togo*.

<sup>175</sup> For example, *Ecuador, Ethiopia, Chile, Costa Rica, Guatemala, Honduras, Mauritania, Morocco, New Zealand, Nicaragua and Peru*. For further information, see the paragraphs 191 to 217 on OSH committees.

<sup>176</sup> For example, *Denmark and Iceland*.

<sup>177</sup> Sections 4–6 of Regulation No. 920/2006 on the organization and implementation of health and safety at the workplace.

<sup>178</sup> For example, *Malta, Mexico and the United Kingdom*.

284. The Committee notes that a number of workers' organizations highlighted issues with respect to the implementation of a system of OSH representatives. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that the majority of employers in *Ukraine* are reluctant to cooperate and consult with workers' representatives, and particularly with representatives of trade union committees, and that this both undermines OSH and is in violation of national law. The observations further alleged that workers are sometimes deprived of the right and opportunity to select representatives for OSH matters. The Netherlands Trade Union Confederation (FNV) indicated that the concept of safety representatives is absent in the *Netherlands*; while members of works councils fulfil certain similar functions, their members lack the requisite knowledge, are not assigned the specific task of protecting the safety and health of workers and are not present in smaller companies. In *Australia*, the Australian Council of Trade Unions (ACTU) indicated that there is a process under way to modify and remove provisions in the model workplace health and safety law to undermine the training rights of health and safety representatives. The ACTU added that, in circumstances where workers' health and safety representatives are dismissed from their employment for performing or attempting to perform their OSH functions, it is extremely difficult in practice to meet the required standards of proof. The New Zealand Council of Trade Unions (NZCTU) indicated that, under the new legislation, approximately 500,000 workers will not be able to request a health and safety representative, and that the Government of *New Zealand* has ceased to fund training for health and safety representatives in high-risk industries.

285. With respect to mining in particular, Article 13(2) of Convention No. 176 outlines the rights that collectively selected workers' safety and health representatives shall have, in accordance with national laws and regulations. The mining sector has a long history of workers' representatives playing a key role in safety, and Convention No. 176 is the only sectoral Convention examined that outlines the specific rights of safety and health representatives, and particularly: (a) the right to participate in inspections and investigations conducted by the employer and by the competent authority at the workplace and to monitor and investigate safety and health matters; (b) to have recourse to advisers and independent experts; (c) to consult with the employer in a timely fashion on safety and health matters, including policies and procedures; (d) to consult with the competent authority; and (e) to receive, relevant to the area for which they have been selected, notice of accidents and dangerous occurrences. These provisions on the right of safety representatives were proposed by the Worker members, with the support of Employers members, during the first Conference discussion on the instrument.<sup>179</sup> The rights identified above presume a certain level of knowledge and understanding on behalf of health and safety representatives.

286. The Committee has noted that, in the case of many ratifying countries, only partial effect is given to Article 13(2) of Convention No. 176<sup>180</sup> with difficulties arising in certain countries in relation to the right of safety and health representatives to have recourse to

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<sup>179</sup> ILO: *Provisional Record* No. 26, Report of the Committee on Safety and Health in Mines, ILC, 81st Session, Geneva, 1994, paras 97 and 98.

<sup>180</sup> See, for example, *Ireland* – CEACR, Convention No. 176, direct request, published in 2013; *Poland* – CEACR, Convention No. 176, direct request, published in 2015; and *United States* – CEACR, Convention No. 176, direct request, published in 2016.

advisers and independent experts, to monitor and investigate safety and health matters and to receive notice of accidents and dangerous occurrences.<sup>181</sup>

287. In the case of *Australia*, the Australian Council of Trade Unions (ACTU) underlined the positive role of workers' representatives in health and safety arrangements in coal mines in the State of Queensland. The ACTU referred in this regard to a 2014 research report that found that these representatives make a substantial contribution to the operation of arrangements for OSH management in mines, and that certain supportive preconditions are necessary for them to be effective, including an appropriate legislative framework, the commitment of the regulatory authority and management to supporting a participative approach to safety and health, appropriate training for representatives and substantial trade union support.<sup>182</sup>

*288. The Committee emphasizes the importance of guaranteeing that safety representatives are able to exercise their rights in practice, including through adequate opportunities for training in identifying and responding to safety and health risks. The Committee recalls that while employers can appoint their own safety officers (including, for example, on bipartite OSH committees), workers' safety and health representatives should be collectively selected by workers. It further recalls that, under Convention No. 176, procedures for the exercise of the rights of safety representatives must be specified by national laws and regulations. These procedures are to be established through consultations between employers and workers and their representatives, and national laws and regulations shall ensure that these rights are exercised without discrimination or retaliation.*

## Right of workers to be informed on safety and health matters

### Box 3.14

#### Right to be informed on safety and health matters

Article 33 of Convention No. 167 provides that:

Workers shall be adequately and suitably:

- (a) informed of potential safety and health hazards to which they may be exposed at their workplace;
- (b) instructed and trained in the measures available for the prevention and control of, and protection against, those hazards.

Article 13(1)(c) and (d) of Convention No. 176 provides that:

- 1. Under the national laws and regulations ... workers shall have the following rights:

...

- (c) to know and be informed of workplace hazards that may affect their safety or health;
- (d) to obtain information relevant to their safety or health, held by the employer or the competent authority;

...

Article 8(1)(a) of Convention No. 184 provides that:

- 1. Workers in agriculture shall have the right:

- (a) to be informed and consulted on safety and health matters including risks from new technologies;

...

<sup>181</sup> See, for example: *Albania* – CEACR, Convention No. 176, direct request, published in 2016; and *Peru* – CEACR, Convention No. 176, direct request, published in 2015.

<sup>182</sup> Walters, D., et al.: *A study of the role of workers' representatives in health and coal safety arrangements in coal mines in Queensland*, the Construction, Forestry, Mining and Energy Union (CFMEU), 2014.

289. Ensuring that workers have adequate information concerning OSH is key to the development of a national safety and health culture.<sup>183</sup> The following paragraphs<sup>184</sup> examine the right of workers to be informed on OSH issues while Chapter IV of the Survey examines certain important measures to ensure that information is provided in this respect, including practical actions and requirements placed on employers.

290. Convention No. 176 and Convention No. 184 both provide that workers have the right to be informed on safety and health matters, with Convention No. 176 specifying that workers in mining have the right to be informed of workplace hazards that may affect their safety or health. Convention No. 167 also requires that workers be adequately informed of potential safety and health hazards.<sup>185</sup>

291. Although a greater number of countries referred to a general obligation of employers to provide information,<sup>186</sup> the legislation in certain countries specifically provides that workers have a right to be informed of workplace hazards.<sup>187</sup> For example, the OSH legislation in the *Republic of Moldova* provides that every worker has the right to receive reliable information from the employer about the conditions of work and any existing safety and health hazards, as well as on protective measures against the impact of occupational risks or hazards.<sup>188</sup> Some countries referred to the rights of workers in particular sectors. For example, in *Cuba*<sup>189</sup> and *Peru*,<sup>190</sup> miners have the right to know the risks in the workplace that may affect their safety or health, and in *Panama* the regulations on safety and health in the construction sector provide that workers have the right to obtain information on the risks at work with respect to hazardous chemicals and materials.<sup>191</sup>

292. With reference to the implementation of this right in practice, the General Union of Workers (UGT) reported that in *Spain* employers do not provide adequate information to workers. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that in *Ukraine* the national legislation lacks provisions guaranteeing that workers are informed of OSH risks related to their jobs. Moreover, the Australian Council of Trade Unions (ACTU) indicated that workers engaged in insecure work are often not informed about hazards in the workplace. The All-Poland Trade Unions Alliance (OPZZ) indicated that in *Poland* the inadequate flow of information, or the absence of information, is a significant problem in both large and small companies, and that rules on communication between trade unions, the employer and employees would be useful.

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<sup>183</sup> Article 3(3) of Convention No. 187.

<sup>184</sup> Paragraphs 290–293.

<sup>185</sup> Similar language is contained in the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), Article 13; the Occupational Health Services Convention, 1985 (No. 161), Article 13; and the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), Article 20.

<sup>186</sup> For example, *Belgium, Finland, Iceland, Republic of Korea, Republic of Moldova, Saudi Arabia, Sudan, Turkey and Qatar*.

<sup>187</sup> For example, *Belarus* and *Viet Nam*.

<sup>188</sup> Section 20 of Law No. 186-XVI of 10 July 2008 on occupational health and safety.

<sup>189</sup> Section 16 of Resolution No. 158/2014 of the Ministry of Energy and Mines.

<sup>190</sup> Section 40(b) of Supreme Decree No. 055-2010-EM approving the Occupational Safety and Health Regulations and other complementary measures in mining.

<sup>191</sup> Section 38 of Decree No. 2 of 15 February 2008 regulating safety, health and hygiene in the construction industry.

293. *The Committee recalls that ensuring workers are appropriately informed on OSH matters is a key element of the development of a safety and health culture. It underlines in this respect the importance of the right of workers to be informed of workplace hazards, through means such as initial orientation and periodic update sessions, annual refresher training and information disseminated whenever significant changes, including the use of new chemicals, are introduced in the workplace.*

Right of workers to remove  
themselves from danger

**Box 3.15**  
**Right to removal**

Article 12(1) of Convention No. 167 provides that:

National laws or regulations shall provide that a worker shall have the right to remove himself from danger when he has good reason to believe that there is an imminent and serious danger to his safety or health, and the duty so to inform his supervisor immediately.

Article 13(1)(e) of Convention No. 176 provides that:

1. Under the national laws and regulations ..., workers shall have the following rights:

...

(e) to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health;

...

Article 8(1)(c) of Convention No. 184 provides that:

1. Workers in agriculture shall have the right:

...

(c) to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions.

294. The three sectoral Conventions examined in this General Survey provide that workers shall have the right to remove themselves from situations which reasonably appear to pose a danger to their safety and health, although each Convention phrases this right in a different manner. While Convention No. 167 refers to a serious and imminent danger and Convention No. 184 refers to a serious and imminent risk, Convention No. 176 does not require the danger to be imminent. Moreover, while Convention No. 176 refers to circumstances which “appear with reasonable justification” to pose such a danger, Convention No. 167 refers to “a good reason to believe” that such a danger exists, and Convention No. 184 refers to a “reasonable justification to believe” that there is such a risk.

295. Concerning the right to removal, a significant number of countries indicated that, under national legislation, workers have the specific right to remove themselves from situations that they reasonably believe presents a danger to their health or safety.<sup>192</sup> In Kenya, the worker shall report to the immediate supervisor any situation reasonably believed to present an imminent or serious danger to the safety or health of the worker. The occupier shall not require the worker to return to a workplace where there is a continuing imminent or serious danger to safety or health, until remedial action is taken.

<sup>192</sup> For example, Algeria, Cuba, Finland, France, Kazakhstan, Kenya, New Zealand, Panama, Russian Federation and Bolivarian Republic of Venezuela.

Furthermore, a worker who has left a workplace having reasonable justification to believe that it presents imminent and serious danger to life and health shall not be dismissed, discriminated against or disadvantaged for such action.<sup>193</sup> In *Bolivarian Republic of Venezuela*, the worker has the right to refuse work when he or she has reasonable justifications to believe that there is an imminent risk for life or health, based on his or her experience and training, without this being considered desertion of the post.<sup>194</sup> Moreover, certain countries also referred to legislation relating to the construction<sup>195</sup> or mining sectors<sup>196</sup> which protects the right of workers in those sectors to remove themselves from danger entailing an imminent and serious risk. A number of governments also referred to the protection against retaliation provided to workers who remove themselves from dangerous work situations.<sup>197</sup>

296. However, certain governments reported that this right is not protected in their national legislation.<sup>198</sup> A number of governments also referred to legislative provisions that do not appear to give full effect to the provisions of the Conventions. Specifically, some governments referred to legislation that permits safety delegates to stop an operation that they believe presents a serious or imminent danger, but does not allow workers to remove themselves, or requires that prior permission be obtained from an inspector for removal.<sup>199</sup> Certain governments reported that workers first have to report the situation to a safety committee,<sup>200</sup> or referred only to the obligation of workers to inform their employer in the case of dangerous situations.<sup>201</sup> Moreover, the legislation in some countries specifies that the danger, in addition to being imminent and serious, must be “unavoidable”, which is a higher threshold than that set in the Conventions.<sup>202</sup> One country indicated that in cases of hazards that threaten workers’ health or safety, workers are permitted under national legislation to terminate their contract with full severance pay,<sup>203</sup> which does not constitute an appropriate substitute for the right of removal.

297. The Committee notes with concern that several workers’ organizations reported issues with respect to the implementation of this right, including retaliation for its exercise. For example, the Federation of Korean Trade Unions (FKTU) indicated that, while in law in the *Republic of Korea*, workers have the right to suspend their work and evacuate when there is an imminent danger, in reality they rarely do so, and often only after an accident has occurred. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that in the *United States* the OSH Act prohibits employers from discriminating or taking retaliatory action against workers who exercise their rights under the law, including protection for refusal to perform unsafe work. Nonetheless, the AFL-

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<sup>193</sup> Section 14(1) and (2), Occupational Safety and Health Act, 2007.

<sup>194</sup> Section 53(5), Basic Act on prevention, working conditions and working environment of the Bolivarian Republic of Venezuela, 2005.

<sup>195</sup> For example, *Colombia* and *Panama*.

<sup>196</sup> For example, *Mexico* and *South Africa*.

<sup>197</sup> For example, *Kenya*, *Romania*, *Senegal* and the *United Kingdom*.

<sup>198</sup> For example, *Antigua and Barbuda* and *Ethiopia*. The Government of *Seychelles* indicated that this right is not protected under national legislation, but that it is proposed to include it in the ongoing revision of OSH legislation.

<sup>199</sup> For example, *Chile*.

<sup>200</sup> For example, *Guatemala*.

<sup>201</sup> For example, *Ecuador*, *Iceland*, *South Africa* and *United Republic of Tanzania*.

<sup>202</sup> For example, *Denmark*, *Romania* and *Turkey*.

<sup>203</sup> *Qatar*.

CIO indicated that the enforcement provisions of these rights are weak and that the OSH Administration must go to court to enforce any findings of retaliation. The National Confederation of United Independent Unions (CONUSI) emphasized, concerning *Panama*, that workers' rights with regard to OSH are only respected in practice if there is a strong supporting trade union, while workers in non-unionized workplaces are often dismissed for the exercise of this right. The Single Confederation of Workers of Colombia (CUT) reported that in *Colombia* there is no clear provision in national legislation relating to the right of workers to remove themselves from danger when they have reasonable justification for believing there is an imminent and serious risk to their safety and health. The General Union of Workers (UGT) indicated that in *Spain* the legislative application of the right of workers to remove themselves from danger raises certain issues with regard to the definition of "imminent", for example in the case of an approaching storm or the use of pesticides. The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) also indicated that in *Mexico* workers in mining have to inform joint OSH committees, which then confirm whether the situation presents an imminent risk. The Confederation of Gabonese Free Trade Unions (CGSL) indicated that, while the legislation in *Gabon* protects the right of workers to remove themselves from situations of danger, this right is often not respected.

*298. The Committee considers that the right of workers to remove themselves from situations when there is a reasonable justification to believe that there is a serious and imminent danger remains an essential foundation for the prevention of occupational accidents and diseases and must not be undermined by any action by the employer. It is linked to the duty of workers to inform their employer about such situations, although this obligation should not be seen as a prerequisite for the exercise of the right of removal. Noting the indication by several governments that this right is not enshrined in national legislation, the Committee recalls that, under the sectoral Conventions examined in this Survey, this right must be protected in national law and regulations.*

## Duties of workers with respect to OSH

299. Just as it is important for the duties of employers to be defined, workers obligations with respect to OSH need to be well delineated. In this regard, each of the sectoral Conventions clearly outlines the duties of workers. The following paragraphs<sup>204</sup> focus on the duties common to the three sectoral Conventions: the duty to comply with prescribed health and safety measures; the duty to inform employers in situations where workers believe there is an imminent and serious risk to health and safety; and the duty to cooperate with employers concerning their safety and health obligations.

### **Box 3.16** **Certain duties of workers**

Article 11 of Convention No. 167 provides that:

National laws or regulations shall provide that workers shall have the duty to:

- (a) co-operate as closely as possible with their employer in the application of the prescribed safety and health measures;
- ...
- (d) report forthwith to their immediate supervisor, and to the workers' safety representative where one exists, any situation which they believe could present a risk, and which they cannot properly deal with themselves;

<sup>204</sup> Paragraphs 300 to 311.



- (e) comply with the prescribed safety and health measures.

Article 14 of Convention No. 176 provides that:

Under national laws and regulations, workers shall have the duty, in accordance with their training:

- (a) to comply with prescribed safety and health measures;

...

- (c) to report forthwith to their immediate supervisor any situation which they believe could present a risk to their safety or health or that of other persons, and which they cannot properly deal with themselves; and
- (d) to cooperate with the employer to permit compliance with the duties and responsibilities placed on the employer pursuant to the Convention.

Article 8(2) of Convention No. 184 provides that:

Workers in agriculture and their representatives shall have the duty to comply with the prescribed safety and health measures and to cooperate with employers in order for the latter to comply with their own duties and responsibilities.

### Duty of workers to comply with prescribed safety and health measures

300. Conventions Nos 167, 176 and 184 each provide that workers have the duty to comply with prescribed safety and health measures. Conventions Nos 167 and 176 both specify that this duty shall be provided in national laws and regulations, and Convention No. 176 also specifies that this duty shall be in accordance with their training. Under Convention No. 184, this obligation also extends to workers' representatives.

301. Convention No. 167 was the first ILO standard establishing such a duty for workers. This provision was added during the first Conference discussion leading up to the adoption of the instrument, during which it was highlighted that, in light of the duty of employers to comply with prescribed measures, there should be a corresponding duty on the part of workers.<sup>205</sup>

302. Member States, to a large extent, set out the duty of workers to comply with OSH measures in their national legislation. For example, the legislation in numerous countries, such as *Burkina Faso*,<sup>206</sup> *Madagascar*,<sup>207</sup> *Peru*,<sup>208</sup> *Russian Federation*<sup>209</sup> and *Tunisia*,<sup>210</sup> requires workers to follow requirements or instructions related to health and safety at work. Certain governments also reported that the duty to comply with prescribed safety and health measures is reflected in sector-specific legislation relating to mining<sup>211</sup> or construction.<sup>212</sup> Moreover, the legislation in certain countries, such as *Costa Rica*,<sup>213</sup>

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<sup>205</sup> ILO: *Record of Proceedings* No. 23, Report of the Committee on Safety and Health in Construction, ILC, 73rd Session, Geneva, 1987, para. 64.

<sup>206</sup> Section 247 of Decree No. 2008-331/PRES enacting Act No. 028/2008/AN of 13 May 2008 on the Labour Code in Burkina Faso.

<sup>207</sup> Section 111 of Act No. 2003-044 on the Labour Code, of 28 July 2004.

<sup>208</sup> Section 79 of Act No. 29783 on occupational safety and health, of 19 August 2011.

<sup>209</sup> Section 214 of the Labour Code (Federal Law No. 197-FZ of 2001), of 31 December 2001.

<sup>210</sup> Section 152-3 of the Labour Code 1996.

<sup>211</sup> For example, *Colombia* and *Cuba*.

<sup>212</sup> For example, *Ecuador* and *Panama*.

<sup>213</sup> Section 102 of Labour Code.

*Ethiopia*,<sup>214</sup> *Malaysia*<sup>215</sup> and the *Republic of Korea*,<sup>216</sup> specifies that this duty includes health and safety instructions issued by the employer and the requirements of the competent authority.

303. Certain countries specified the type of measures with which workers are required to comply. The legislation in *Algeria* refers to the duty of workers to comply with employers' instructions concerning health and safety issued in conformity with national laws and regulations, while the legislation in *Finland* refers to the obligation of workers to follow orders and instructions given by the employer, within the latter's competence.<sup>217</sup> In this respect, the Governments of *Australia* and *New Zealand* indicated that the duty extends only reasonable instructions (issued by the person conducting a business or undertaking to enable it to comply with the legislation or regulations), in so far as the worker is reasonably able to do so.

304. *The Committee stresses that compliance by workers with prescribed health and safety measures is a vital contributor to OSH. The provision of adequate information and appropriate training plays an important role in facilitating the discharge of this duty by workers.* These measures are further discussed in Chapter IV.

#### Duty of workers to report situations presenting a risk to safety and health

305. Convention No. 167 and Convention No. 176 establish the requirement for national laws or regulations to provide that workers have a duty to report forthwith to their immediate supervisor any situation which they believe could present a risk to their safety or health or that of other persons, and which they cannot properly deal with themselves. These requirements are similar to those contained in Convention No. 155.<sup>218</sup> With respect to workers in the agricultural sector, Convention No. 184 provides that workers must inform their supervisor immediately when they have reasonable justification to believe there is an imminent and serious risk to their safety and health.

306. The legislation in most countries examined gives effect to these provisions. The legislation in many countries, such as *Belarus*,<sup>219</sup> *Germany*,<sup>220</sup> *Kazakhstan*,<sup>221</sup> *Russian*

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<sup>214</sup> Section 93 of the Labour Proclamation No. 377/03, 2003.

<sup>215</sup> Section 24 of the Occupational Safety and Health Act No. 514, 1994.

<sup>216</sup> Section 6 of the Occupational Safety and Health Act No. 3532, of 31 December 1981.

<sup>217</sup> Section 18 of the Occupational Safety and Health Act No. 738/2002, of 23 August 2002.

<sup>218</sup> Article 19(f) of Convention No. 155 requires the reporting only of situations that the worker has reasonable justification to believe presents an imminent and serious danger to his life or health, not situations that could present a risk to their safety and health, as in Conventions Nos 167 and 176. In addition, while Conventions Nos 167 and 176 impose the duty to report only situations that workers cannot properly deal with themselves, Convention No. 155 requires arrangements for the reporting of all situations.

<sup>219</sup> Section 232 of the Labour Code of Belarus.

<sup>220</sup> Section 16 of the Act on the implementation of measures of occupational safety and health to encourage improvements in safety and health protection of workers at work.

<sup>221</sup> Sections 22(2)(5) and 315(1) of the Labour Code of the Republic of Kazakhstan.

*Federation*,<sup>222</sup> *Senegal*,<sup>223</sup> *Serbia*<sup>224</sup> and *Tunisia*,<sup>225</sup> provides that workers are required to inform their supervisor immediately of any situation likely to cause danger to health and safety, while in other countries, such as *Ethiopia*,<sup>226</sup> *Iceland*<sup>227</sup> and *Kenya*,<sup>228</sup> this obligation applies only to situations that cannot be corrected by the workers themselves.

307. Under Convention No. 167, workers also have the duty to report such situations to the workers' safety representative, where one exists. In this regard, the legislation in several countries requires workers to inform both their employer and the workers' safety representative, including in *Burkina Faso* (referring to a member of the safety and health committee),<sup>229</sup> *Denmark* (referring to a member of the safety and health committee),<sup>230</sup> *South Africa*<sup>231</sup> and *Turkey*.<sup>232</sup>

308. *The Committee places considerable importance on such reporting by workers, with a view to ensuring that the necessary preventive or remedial measures can be adopted and implemented quickly in order to guarantee the safety and health of all workers at the undertaking.*<sup>233</sup> *While this duty is linked to the right of workers to remove themselves from situations that could present a risk, nothing in the Conventions suggests that workers must inform their supervisor prior to exercising their right to removal. The Committee accordingly emphasizes that the exercise of the right to removal is not conditional upon informing the supervisor, and that this duty should not be interpreted as requiring prior approval for exercising the right of removal.*<sup>234</sup>

## Duty of workers to cooperate on safety and health matters

309. Conventions Nos 167, 176 and 184 place a duty upon workers to cooperate with their employer with respect to safety and health. While the phrasing of this obligation differs slightly in each sectoral Convention, this duty mirrors the provisions of Convention No. 155.<sup>235</sup> Convention No. 167 contains the widest obligation, referring to the duty to cooperate as closely as possible with the employer in the application of prescribed safety

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<sup>222</sup> Section 21 of the Labour Code of the Russian Federation (Federal Law No. 197-FZ of 2001), of 31 December 2001.

<sup>223</sup> Section L183 of Act No. 97-17 of 1 December 1997 on the Labour Code.

<sup>224</sup> Section 36 of the Law on Occupational Safety and Health.

<sup>225</sup> Section 152-3 of the Labour Code of Tunisia of 1996.

<sup>226</sup> Section 93 of the Labour Proclamation No. 377/03, 2003.

<sup>227</sup> Section 26(2) of the Act on the working environment, health and safety in workplaces, No. 46/1980, of 28 May 1980.

<sup>228</sup> Section 13 of the Occupational Safety and Health Act No. 15 of 2007.

<sup>229</sup> Section 247 of Decree No. 2008-331/PRES enacting Act No. 028/2008/AN of 13 May 2008 on the Labour Code in Burkina Faso.

<sup>230</sup> Section 28 of the Working Environment Act No. 268, of 18 March 2005.

<sup>231</sup> Section 14 of the Occupational Health and Safety Act No. 85 of 1993.

<sup>232</sup> Section 19 of the Act No. 6331 on Occupational Safety and Health, of 20 June 2012.

<sup>233</sup> *United States* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>234</sup> See the examination of Article 19(f) of Convention No. 155 in ILO: *General Survey on occupational safety and health*, 2009, para. 151.

<sup>235</sup> Article 19(a) of Convention No. 155 provides that there shall be arrangements at the level of the undertaking under which workers, in the course of performing their work, cooperate in the fulfilment by their employer of the obligations placed upon him.

and health measures. Conventions Nos 176 and 184 refer to cooperation with the employer only with respect to the employers' duties and responsibilities.

310. The Committee noted in its 2009 General Survey that the majority of countries have established certain arrangements at the level of the undertaking under which workers cooperate with the employer in the fulfilment of their OSH obligations,<sup>236</sup> and the majority of the reports received indicate continuity in this regard. This obligation of workers is generally contained in legislative provisions outlining the general duties of workers, and such provisions often establish the requirement for workers to cooperate with other persons with prescribed obligations, in addition to the employer. For example, the OSH legislation in *South Africa* provides that, with regard to any duty or requirement imposed on the employer or any other person by the legislation, workers shall cooperate with such employer or person to enable that duty or requirement to be performed or complied with.<sup>237</sup> In *Malaysia*, workers have the duty, while at work, to cooperate with their employer or any other person in the discharge of any duty or requirement imposed on the employer or that other person under the OSH legislation and regulations.<sup>238</sup> The legislation in *Romania* requires workers to cooperate with the employer and/or designated workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity.<sup>239</sup>

311. *As the Committee also emphasized in the section on cooperation in this Chapter, ensuring a safe and secure working environment requires workers and employers to work together at the level of the undertaking on matters of safety and health. The importance of this duty of workers is borne out by its widespread reflection in the legislation of member States.*

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<sup>236</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 195.

<sup>237</sup> Section 14 of the Occupational Health and Safety Act No. 85 of 1993.

<sup>238</sup> Section 24 of the Occupational Safety and Health Act No. 514, 1994.

<sup>239</sup> Section 23 of the Safety and Health Law, No. 319 of 2006.



## **Chapter IV. Developing a national safety and health culture, assessing occupational risks and specific preventive and protective measures**

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### **1. Developing a national safety and health culture**

312. Convention No. 187 calls for the development of a national preventative safety and health culture that includes information, consultation and training. As highlighted in the preparatory work for the Convention, a safety culture is the product of individual and group values, attitudes, perceptions, competencies and behaviours that contribute to health and safety management, and its development is a dynamic and progressive process. Advancing a safety culture means seeking continual improvement, including the prioritization of OSH and building on lessons learned with respect to accident and disease prevention.<sup>1</sup>

313. Building and maintaining a preventative safety and health culture requires tripartite engagement. Convention No. 187 and Recommendation No. 197 provide concrete indications of the measures that can be taken to develop such a national culture, including measures to: raise awareness of OSH through national campaigns; promote education and training mechanisms on OSH for tripartite constituents; introduce OSH concepts into education and vocational training; facilitate the exchange of data on OSH; provide information and advice to employers, workers and their respective organizations; promote, at the workplace level the establishment of safety and health policies and joint safety and health committees and the designation of workers' OSH representatives; and measures to address the constraints faced by micro-enterprises, SMEs and contractors.<sup>2</sup>

314. The IOE underlined the importance of developing a safety and health culture. It indicated that, while overall responsibility for safety and health in the workplace is the responsibility of the employer, its management can be enhanced if those entering the workforce already have a preventative safety mentality. It emphasized that an approach that invites not only employers but also workers and governments to engage in a responsible manner at the national level in creating a safety and health culture and reinforcing national efforts to reduce occupational accidents, injuries and disease is key.

315. This section analyses concrete and practical measures taken by countries to develop a preventative safety and health culture by: raising public awareness; providing training

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<sup>1</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, paras 26–33.

<sup>2</sup> Paragraph 5 of Recommendation No. 197.

to workers and employers on OSH; and taking measures to ensure that workers are informed of safety and health hazards associated with their work.

## Raising awareness on OSH

316. The framework instruments recognize the important role that society as a whole can play in promoting a safety and health culture. Recommendation No. 197 identifies the vital role of raising public and workplace awareness on OSH, including through national campaigns.<sup>3</sup> In this regard, many countries reported taking measures to raise awareness with a view to facilitating the development of a national safety and health culture.<sup>4</sup> For example, in *Colombia*, the Ministry of Labour has signed an agreement with the national television and radio agency for the development of radio commercials and videos on the OSH system. The Government of *Singapore* reported that it holds an annual National Workplace Safety and Health Campaign, with festivities and events to celebrate performance and milestones, including the presentation of annual workplace safety and health awards for companies, projects and individuals. The Government of *Bahrain* reported that the national safety and health council is responsible for raising preventative awareness by means of radio, television and the press, and by staging exhibitions and holding conferences and seminars.

317. Several governments indicated that participation in the World Day for Safety and Health at Work offers an important opportunity to raise public awareness and highlight OSH issues.<sup>5</sup> The Government of *Uganda* reported public awareness raising through radio and print media to mark the World Day, while the Government of *Estonia* reported seminars and press conferences held on the World Day by the labour inspectorate in cooperation with the European Agency for Safety and Health at Work (EU-OSHA). The Government of *Kazakhstan* indicated that for six consecutive years it has held an annual conference on labour protection and industrial safety for countries in Eastern Europe and Central Asia for the World Day.

318. Comments from certain social partners emphasized the importance of broad societal participation and the need to take further measures to raise awareness. The IOE underlined that society as a whole needs to be part of the wider solution of creating a mentality and culture of safety and health that supports employers' efforts to reduce accidents at work in all sectors. All members of society must contribute to achieving this goal by ensuring that OSH is not a priority, but a fundamental value.

319. With respect to the importance of awareness raising, the Sudanese Businessmen and Employers Federation (SBEF) highlighted that, while efforts are ongoing through workshops and training courses, more was needed to raise awareness of OSH in *Sudan*. The Federation of the German Construction Industry (HDB) and the German Construction Federation (ZDB) highlighted that it is important to strengthen the awareness of employees in *Germany*, particularly with respect to musculoskeletal disorders, including through the provision of sufficient information and courses. The Confederation of

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<sup>3</sup> Paragraph 5 of Recommendation No. 197 states that "In promoting a national preventative safety and health culture as defined in Article 1(d) of the Convention, Members should seek: (a) to raise workplace and public awareness on occupational safety and health through national campaigns linked with, where appropriate, workplace and international initiatives; [...]".

<sup>4</sup> See, for example, *Australia, Bahrain, Colombia, Cuba, Dominican Republic, Panama, Poland, Singapore, Sudan, Uganda, United Kingdom* and *Viet Nam*.

<sup>5</sup> For example, *Albania, Cuba, Dominican Republic, Estonia, Ethiopia, Kazakhstan, Panama, Seychelles, Sri Lanka* and *Uganda*.

Employers of the Mexican Republic (COPARMEX) indicated that a national programme “Safe Enterprise” gives recognition to enterprises that develop efficient OSH systems and that the occupational accident rate in participating enterprises is 67 per cent lower than the national average.

## OSH education and training

### **Box 4.1** **OSH training**

Article 4(3)(c) of Convention No. 187 provides that:

The national system for occupational safety and health shall include, where appropriate:

...

(c) the provision of occupational safety and health training; ...

320. Convention No. 187 highlights that OSH training greatly contributes to the development of a safety and health culture, and that the provision of OSH training is accordingly, an important component of the national OSH system. Moreover, Convention No. 155 identifies OSH training as a topic to be taken into account in the national OSH policy,<sup>6</sup> underlining that the acquisition and maintenance of knowledge and skills, both at the national level and in the workplace, is essential for OSH outcomes.<sup>7</sup>

321. In its 2009 General Survey, the Committee noted that all the reporting countries included training requirements in their OSH legislation.<sup>8</sup> In this connection, the Committee notes that many countries have reported on practical measures that are being implemented to provide training on OSH,<sup>9</sup> and a large number of countries reported that their legislation requires employers to provide training to workers on OSH.<sup>10</sup> Certain governments also reported that OSH concepts had been introduced into educational and vocational training programmes, as recommended by Recommendation No. 197.<sup>11</sup> Recommendation No. 197 further provides that Members should seek to promote mechanisms for the delivery of OSH education and training to, among others, safety representatives, and certain countries reported the measures taken to provide workers’ representatives with such training.<sup>12</sup>

322. The conclusions of the discussion adopted by the Conference Committee on the Application of Standards of the 2009 General Survey recommended that action be taken to broaden access to OSH education and training, integrate it at all levels of education and

<sup>6</sup> Article 5(c) of Convention No. 155. Article 14 of the Convention also provides that measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

<sup>7</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 70.

<sup>8</sup> *ibid.*

<sup>9</sup> For example, *Belgium, Cyprus, Japan, Pakistan, Philippines, Singapore and Zimbabwe.*

<sup>10</sup> For example, *Algeria, Argentina, Austria, Bahrain, Belarus, Belgium, Cambodia, China, Colombia, Croatia, Denmark, Finland, Germany, Honduras, Iceland, Indonesia, Iraq, Mauritius, Mexico, Poland, Republic of Korea, Republic of Moldova, Russian Federation, Spain, Sudan, Turkmenistan, United Kingdom, Uzbekistan and Viet Nam.*

<sup>11</sup> Paragraph 5(c) of Recommendation No. 197. See, for example, *Brazil, Iraq and the Russian Federation.*

<sup>12</sup> For example, *Ethiopia, Kenya, Republic of Moldova, Ukraine, Bolivarian Republic of Venezuela and Viet Nam.*



ensure that at the enterprise level OSH training includes not only occupational safety representatives, but also managers and employers.<sup>13</sup> The following paragraphs<sup>14</sup> examine the provision of OSH training to workers in construction, mining and agriculture, followed by an examination of the provision of training to management and supervisors.

## OSH education and training for workers

### *Construction*

#### **Box 4.2** **OSH training in construction**

Article 33(b) of Convention No. 167 provides that:

Workers shall be adequately and suitably:

...

- (b) instructed and trained in the measures available for the prevention and control of, and protection against, those hazards.

323. The importance of OSH training in construction was one of the factors leading to the development of Convention No. 167. The preparatory work for the Convention underlined that previous instruments had not given sufficient emphasis to the importance of training and education, and that new standards were needed to address this gap.<sup>15</sup> The preparatory work recognized that the sector faced specific challenges in this respect, including high labour turnover and the lack of capacity by many small contractors in construction to provide training.<sup>16</sup>

324. The Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects held in 2015 identified the importance of OSH training for workers and recommended that tripartite constituents develop a coherent vocational education, skills development and training strategy including OSH-related skills.<sup>17</sup> The Forum also highlighted that OSH training can contribute to addressing the skills gap in the construction industry, and that the regular provision of training can be particularly important in light of the high turnover rates often present in the sector.<sup>18</sup>

325. In addition to the general requirement that workers shall be adequately and suitably trained, the Convention provides that workers engaged in the following operations shall receive appropriate training: the operation of lifting appliances and items of lifting gear; the operation of vehicles and earth-moving or materials-handling equipment, and the operation of plant, machinery and equipment, including hand tools, both manual and power driven.<sup>19</sup> The Convention also requires that persons performing certain functions possess adequate qualifications, such as suitable training, including for the inspection of

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<sup>13</sup> ILO: *Conference Committee on the Application of Standards – Extracts from the Record of Proceedings*, ILC, 98th Session, Geneva, 2009, para. 209.

<sup>14</sup> Paragraphs 323–347.

<sup>15</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, Geneva, 1987, p. 11.

<sup>16</sup> *ibid.*, pp. 4 and 6.

<sup>17</sup> ILO: *Global Dialogue Forum on Good Practices and Challenges in Promoting Decent Work in Construction and Infrastructure Projects*, Points of Consensus, Geneva, Nov. 2015, GDFPDWC/2015/6, para. 14.

<sup>18</sup> *ibid.*, para. 6.

<sup>19</sup> Articles 15(1)(e), 16(1)(b) and 17(1)(d) of Convention No. 167.

scaffolds, the examination and testing of lifting appliances and gear and pressure plant and equipment, the inspection of cofferdams and caissons, the supervision of the erection of structural frames and components, formwork, false work and shoring, and the installation and maintenance of electrical equipment.<sup>20</sup>

326. The Committee has noted the effect given to these provisions by a number of ratifying member States.<sup>21</sup> For example, in *Finland*, specific training is provided on the operation of earth-moving equipment, in addition to the requirement that project supervisors ensure, through training and guidance, that workers are sufficiently familiar with safe working practices and the measures to be taken in relation to hazards.<sup>22</sup>

327. Given the importance of specialized OSH training to workers in the sector, the Committee is pleased to note that a number of countries indicated that specific training on safety and health issues had been provided to workers in construction,<sup>23</sup> while others reported that employers in the sector were required by law to provide training, including induction training for new workers.<sup>24</sup> For example, the Government of *Philippines* reported that workers were not to be deployed on a construction site without having undergone safety and health awareness seminars, and that the OSH Centre of the Department of Labour and Employment had conducted 50 construction safety orientations and 15 week-long construction safety trainings for workers between 2011 and 2015. The Government of *Colombia* reported that the Ministry of Labour has partnered with a regional chamber of construction to provide workshops on the importance of safe behaviour, which benefited 1,100 workers in 2014 and 2015. The Government of the *Republic of Korea* indicated that, pursuant to the OSH Act, employers in the construction industry must ensure that all daily construction workers complete basic safety and health education (provided by a registered institution) prior to performing work.<sup>25</sup> The Government of the *Syrian Arab Republic* reported that it organized a course on safety and health in building and construction in collaboration with the Arab Institute for Occupational Safety and Health in 2015. With respect to training for workers' representatives, the Government of *South Africa* reported that it conducts an annual five-day training course for employees' shop stewards and safety representatives in the sector on construction regulations and the OSH Act, in collaboration with the Congress of South African Trade Unions.

328. Certain workers' and employers' organizations provided information on the measures that are being taken to ensure that workers in the sector receive adequate training. For example, the Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA) pointed out that the organization has developed and implemented training programmes for workers and trade union representatives in the sector in *Argentina*. The General Union of Workers (UGT) emphasized that construction workers in *Spain* are informed about the risks related to their activities through induction workshops where best practices are discussed. Workers also undertake specific courses which are recorded in their "professional construction card",

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<sup>20</sup> Articles 2(f), 14(4), 15(1)(d), 17(3), 20(3), 22(1) and 26 of Convention No. 167.

<sup>21</sup> For example, *Guatemala* – CEACR, Convention No. 167, direct request, published in 2006; *Italy* – CEACR, Convention No. 167, direct request, published in 2012; *Hungary* – CEACR, Convention No. 167, direct request, published in 2012; and *Serbia* – CEACR, Convention No. 167, direct request, published in 2013.

<sup>22</sup> Section 3(2) of Government Decree on the Safety of Construction Work No. 205/2009.

<sup>23</sup> For example, *Belgium*, *China*, *Colombia*, *Philippines*, *Republic of Korea*, *South Africa* and *Ukraine*.

<sup>24</sup> For example, *Argentina*, *Finland*, *Mexico* and the *United Kingdom*.

<sup>25</sup> Sections 31–32 of the Occupational Safety and Health Act No. 3532, of 31 December 1981.

and certain educational OSH measures are included in collective agreements. The Employers' Confederation of the Dominican Republic (COPARDOM) indicated that it has developed and implemented educational plans and training programmes to promote compliance with OSH legislation in construction.

329. However, certain other organizations underlined the lack of training provided to workers in the sector. For example, according to the joint observations from the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) workers in *Ukraine* in the construction sector performing work under short-term contracts, or without contracts at all, are not provided with adequate safety and health training. With respect to training for workers performing specific operations, the Austrian Chamber of Labour (AK) indicated that in *Austria* there are no requirements concerning training for the operation of earth-moving and materials-handling equipment, such as excavators and dump trucks, and that training on OSH should be provided for roadrollers, as there are recurrent serious accidents involving such equipment.

330. The Committee recalls that in its 2016 General Survey concerning the migrant workers instruments, it noted that approximately 26.7 million migrant workers are engaged in the construction and manufacturing industry.<sup>26</sup> In this regard, in examining the application of Convention No. 167, the Committee has noted particular difficulties in certain countries concerning the provision of adequate OSH training to migrant workers in the construction industry.<sup>27</sup>

***331. In this connection, the Committee recalls that all workers in the construction sector, including migrant workers, should be adequately trained in prevention and protection measures. Measures in this respect could include ensuring that occupational safety and health training is provided in a language understood by migrant workers and that workers are trained regularly in order to keep their skills up to date in relation to new prevention techniques, technological progress in general and new workplace hazards. It also draws the attention of member States to the requirements under the Convention that construction workers engaged in certain operations or performing certain functions receive appropriate training and possess adequate qualifications, and recalls that whenever new products, equipment and working methods are introduced, special attention should be paid to informing and training workers on their implications for safety and health.***<sup>28</sup>

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<sup>26</sup> ILO: *Promoting fair migration: General Survey concerning the migrant workers instruments*, Report III (Part 1B), ILC, 105th Session, Geneva, 2016, para. 15.

<sup>27</sup> See, for example, *China* – CEACR, Convention No. 167, observation, published in 2013; *Dominican Republic* – CEACR, Convention No. 167, direct request, published in 2014; and *Norway* – CEACR, Convention No. 167, observation, published in 2015.

<sup>28</sup> Paragraph 44 of Recommendation No. 175.

## Mining

### Box 4.3 OSH training in mining

Article 10(a) of Convention No. 176 provides that:

The employer shall ensure that:

- (a) adequate training and retraining programmes and comprehensible instructions are provided for workers, at no cost to them, on safety and health matters as well as on the work assigned;

...

332. The preparatory work for Convention No. 176 indicated that the findings from accident analysis revealed most accidents in the mining sector are the result of human error or unsafe practices, and accordingly that a significant reduction in accident frequencies can only be achieved through comprehensive training and periodic retraining of mineworkers.<sup>29</sup> Accordingly, the Convention requires employers to ensure both adequate training and retraining on safety and health matters, at no cost to the worker, and provides that workers' implementation of their duties under the Convention shall be in accordance with their training.<sup>30</sup> Training is also identified, in Recommendation No. 183 as an important measure in encouraging cooperation between employers and workers and their representatives.<sup>31</sup>

333. A significant number of countries reported that the legislation requires training to be provided to workers in mining,<sup>32</sup> while other governments referred to training implemented in practice on safety and health in mining.<sup>33</sup> For example, the regulations for mining and quarrying works in *Greece* provide that the manager of the project, under the responsibility of the employer, shall ensure that workers are trained at regular intervals on prevention measures and on the appropriate action to be taken in emergency situations. The regulations also provide that all newly recruited workers, before taking up work, shall attend an initial training programme covering: the provisions of the regulations on safety and health, analysis of personal protective equipment, identification of dangerous locations and situations, analysis of ways and means of escape and rescue, first-aid instruction, and analysis of safety and health risks specific to their job and workstation, in accordance with the results of the risk assessment and relevant instructions. At every project where more than ten workers are employed, training is carried out at least once a year for every specialty, and whenever working methods are changed or a new technology introduced.<sup>34</sup> In this respect, the Government of *Greece* added that training programmes must be drawn up and submitted to the Mines Inspectorate on a yearly basis, and to the trade union associations of the workers of the project. OSH experts and workers' representatives are also entitled to attend the training, and documentation must be kept and forwarded to the Mines Inspectorate of the training implemented, including the list of participants. In relation to small-scale mining, the Government of *Suriname* reported that it has taken measures to improve hazardous working conditions by establishing mining

<sup>29</sup> ILO: *Safety and health in mines*, Report V(1), ILC, 81st Session, Geneva, 1994, p. 18.

<sup>30</sup> Articles 10(a) and 14 of Convention No. 176.

<sup>31</sup> Paragraph 31 of Recommendation No. 183.

<sup>32</sup> For example, *Argentina, Australia, Greece, Japan, Republic of Korea, Spain, United Kingdom* and *Viet Nam*.

<sup>33</sup> For example, *Colombia, Greece* and *Suriname*.

<sup>34</sup> Regulations on mining and quarrying works, 2011.

service centres and schools of mining and mineral processing in mining areas, which teach small-scale miners about mine management and reducing the use of mercury.

334. The Committee notes the observations of the IOE highlighting that progress had been made in the mining industry towards improving safety and health performance, including through the introduction of training. The National Employers Association of Colombia (ANDI) referred to the implementation by employers in *Colombia* of educational OSH programmes for workers in this sector. The Committee has also noted indications by workers' organizations of the deleterious effects of gaps in training. For example, with respect to the application of Convention No. 176 by *Portugal*, the Committee has noted the observations of the General Workers' Union (UGT) identifying the lack of vocational training of miners as one of the causes of occupational accidents and fatalities.<sup>35</sup>

**335. *Recalling that adequate training on safety and health issues is an important contributor to the reduction of occupational accidents and diseases in mining, including initial training for newly recruited workers and training provided at regular intervals, the Committee underlines the importance of employers ensuring the provision of such training to all workers, at no cost to the worker.***

## Agriculture

### Box 4.4 OSH training in agriculture

Article 7(b) of Convention No. 184 provides that:

In order to comply with the national policy referred to in Article 4 of the Convention, national laws and regulations or the competent authority shall provide, taking into account the size of the undertaking and the nature of its activity, that the employer shall:

...

- (b) ensure that adequate and appropriate training and comprehensible instructions on safety and health and any necessary guidance or supervision are provided to workers in agriculture, including information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language;

...

336. The preparatory work for Convention No. 184 highlighted the importance of training on OSH matters for agricultural workers, recalling the high number of temporary or casual workers in the sector and the many migrant workers performing seasonal work, who are less likely to receive sufficient training. Moreover, agricultural workers are often expected to be able to switch from one type of equipment to another, depending on the season and the type of crop, and the safe operation of a variety of equipment requires specific training.<sup>36</sup> The preparatory work therefore underlined that training in health and safety in agriculture requires a pragmatic approach, providing those involved in agriculture with a sound knowledge of work processes and production procedures; the means to identify, assess and monitor work-related risk factors; information on first aid; and methodologies for planning and implementing risk prevention.<sup>37</sup> Recommendation No. 192 emphasizes that measures should be taken by the competent authority to ensure that self-employed

<sup>35</sup> *Portugal* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>36</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, pp. 28 and 50.

<sup>37</sup> *ibid.*, p. 72.

farmers enjoy safety and health protection afforded by the Convention, including appropriate training.<sup>38</sup>

337. In this connection, the Committee notes the indication by some member States that national legislation requires the provision of training to workers in agriculture,<sup>39</sup> notably on the use of technology or management of chemicals and pesticides, while other governments reported the practical measures being implemented to train workers on safety and health issues.<sup>40</sup> For example, the Government of *Cyprus* reported that the Department of Labour Inspection carries out training through its OSH training centre, in cooperation with the social partners, and that the department cooperates with the department of agriculture to deliver specific OSH training programmes, with a particular focus on educating new farmers. The General Union of Workers (UGT) indicated that more experienced workers in *Spain* conduct induction talks for new workers in the agricultural sector and that collective agreements also contain provisions on educational OSH measures in agriculture.

338. The Convention requires that agricultural machinery and equipment be operated by trained and competent persons, in accordance with national law and practice.<sup>41</sup> In this respect, the Government of *China* reported that workers receive training on using agricultural technology, and that the agriculture legislation requires the Government to develop vocational education training in agriculture and to establish a system of continuing education for professional agricultural technicians. The Government of the *United States* indicated that the agricultural standards require employers to instruct all employees working with farm field equipment, farmstead equipment and cotton gins on the safe operation and servicing of the equipment. Recommendation No. 192 also provides that the training provided to workers should include training on hazards and the precautions to be followed in connection with the use of chemicals at work.<sup>42</sup> In this respect, certain governments reported the provision of training to workers on chemicals and pesticides.<sup>43</sup>

339. Nonetheless, the Committee notes the indication by a few governments that not all workers in the sector are provided with OSH training. For example, the Government of the *Republic of Korea* reported that the OSH Act requires employers to provide safety and health education to workers on a regular basis, but that agricultural worksites with fewer than 50 workers are exempt from this requirement.

340. The Convention recognizes that different forms of training may be necessary taking into account the workers' level of education, as well as differences in language.<sup>44</sup> This is particularly important in agriculture in light of the number of migrant workers engaged in the sector, as well as the number of workers with reading difficulties.<sup>45</sup> In this regard, the Committee notes that a number of governments have taken measures in law and practice to ensure that OSH training and information is available in different languages. The Government of *Hungary* reported the requirement in national legislation for employers to

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<sup>38</sup> Paragraph 13(1) and (2)(c) of Recommendation No. 192.

<sup>39</sup> For example, *Argentina*, *Belgium*, and the *United States*.

<sup>40</sup> For example *China*, *Colombia*, *Cyprus* and *Iceland*.

<sup>41</sup> Article 10(b) of Convention No. 184.

<sup>42</sup> Paragraph 7(2)(e) of Recommendation No. 192.

<sup>43</sup> For example, *Belgium* and *Iceland*.

<sup>44</sup> Article 7(b) of Convention No. 184.

<sup>45</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 28.

provide education and training to employees and safety representatives on certain risk factors in a language understood by the workers, while in *Sweden* the work environment authority has produced guidebooks in a variety of languages on agricultural topics. In *Finland*, the Government provides a Russian language version of the guidebook for seasonal employees on berry picking in the country.<sup>46</sup> The Confederation of Workers of Argentina (CTA Autonomous) indicated that, because a great number of rural workers in *Argentina* are illiterate and particularly vulnerable, the Government set up a specific national authority tasked with registration and social protection services, as well as education and training activities of these workers, including migrant workers.

**341. *In light of the varied nature of work in agriculture, and the specific risks involved, the Committee stresses the importance of ensuring that workers receive adequate and appropriate training on safety and health issues, tailored to their specific educational background and language competencies, including, as appropriate, training related to the exposure to specific hazards and the precautions to be followed in connection with the use of chemicals at work. This includes appropriate training in particular with regard to issues concerning women's health relating to pregnancy, breastfeeding and reproductive health.***

#### OSH education and training for management and supervisors

342. Recommendation No. 197 highlights the importance of promoting mechanisms for the delivery of OSH education and training, including for management and supervisors.<sup>47</sup> In this respect, the Committee notes the observations of the IOE indicating that compliance with the law has to be accompanied by education, training and support towards compliance.

343. The Committee is pleased to note that a significant number of countries have reported on measures taken to support the training of employers, managers and supervisors on OSH.<sup>48</sup> For example, the Government of *Poland* reported that employers should undergo training, and periodic retraining, on OSH related to their obligations. The Government establishes framework programmes for the training of employers and managers, which form the basis for the development of detailed training curricula. The Government of the *Philippines* reported that the accredited safety training organizations of the Department of Labour and Employment provide safety management courses and safety audit courses for managers and supervisors, and that over 60,000 supervisors and technical personnel have been trained over a five-year period.

344. A recent ILO report on decent work in global supply chains highlighted the provision of training and assistance by employers' organizations to enterprises on their legal responsibilities and effective workplace compliance policies, as well as the role of lead firms in promoting OSH in their supply chains.<sup>49</sup> In this respect, the National Confederation of Industry (CNI) indicated that large companies in *Brazil* have supported the implementation of OSH preventive programmes and cultural change in their supply chains. The Australian Chamber of Commerce and Industry (ACCI) referred to a programme implemented by the Master Builders Australia to provide safety and health

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<sup>46</sup> *Finland* – CEACR, Convention No. 184, direct request, published in 2011.

<sup>47</sup> Paragraph 5(b) of Recommendation No. 197.

<sup>48</sup> For example, *Australia, Belarus, Cambodia, China, Croatia, Cyprus, Ethiopia, Japan, Indonesia, Mauritius, Pakistan, Philippines, Poland, Qatar, Republic of Korea, Russian Federation, Turkmenistan, Ukraine and Uzbekistan.*

<sup>49</sup> ILO: *Decent work in global supply chains*, Report IV, ILC, 105th Session, 2016, paras 138 and 152.

training to leaders and supervisors in the construction sector, using state-of-the-art technology to simulate a virtual work site for participants. The Confederation of Employers of the Mexican Republic (COPARMEX) also referred to mandatory OSH training for directors and supervisors in *Mexico*.

345. ***Noting that Convention No. 187 underlines the importance of support mechanisms for a progressive improvement of OSH conditions in micro-enterprises and in SMEs,***<sup>50</sup> ***the Committee highlights that the provision of training to managers and supervisors in such enterprises can be an important tool in this regard.*** For example, the Government of the *Republic of Korea* reported that the OSH agency provides safety and health education for employers and managers of SMEs and distributes learning materials and guidelines to assist them in OSH. In *Malaysia*, the department of OSH operates a programme supporting SMEs which includes training programmes and services, as well as instructions on how SMEs, can follow the applicable standards in practice. The Government of the *United States* reported that the OSH Agency operates an on-site consultation programme that advises small and medium-sized businesses on the creation or improvement of their injury and illness prevention programmes, and that such services have been provided to 28,000 small businesses, with priority given to high-hazard worksites.<sup>51</sup> The Australian Chamber of Commerce and Industry (ACCI) indicated that a number of jurisdictions in *Australia* have started to focus on the needs of small businesses in relation to OSH, and that emphasis on education and support for these businesses had been successful.

346. The Committee is mindful of the observations of a number of employers' and workers' organizations indicating that further measures are necessary for the provision of training to managers and supervisors. Several workers' organizations in *Finland* (the Central Organization of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) and the Finnish Confederation of Professionals (STTK)) indicated that the capacities and know-how of employers regarding OSH issues should be supervised more comprehensively, and that training of employers on OSH issues should therefore be obligatory. The Federation of Korean Trade Unions (FKTU) indicated that OSH training for employers is not prescribed in the *Republic of Korea*, while the Sudanese Businessmen and Employers Federation (SBEF) indicated that, in practice, there is a serious dearth of training systems at all levels in this area, and that substantial efforts are needed for improvement in *Sudan*. The Australian Council of Trade Unions (ACTU) indicated that managers and supervisors do not generally receive adequate education and training enabling them to acquire the necessary skills and expertise in order to perform their jobs. Business New Zealand underlined that many smaller employers in *New Zealand* are likely to experience real difficulties knowing which regulations apply to their own workplace and that the provision of guidance is essential.

347. ***Recalling that the active participation of employers is indispensable for securing a safe and healthy working environment, the Committee encourages governments, in consultation with employers' and workers' organizations, to examine measures that can be taken to ensure that OSH training is available for managers and supervisors. It encourages governments to consider the specific measures that could be taken in this respect to support micro-enterprises and SMEs.***

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<sup>50</sup> Article 4(3)(h) of Convention No. 187.

<sup>51</sup> With respect to the on-site consultation programme, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) stated that compliance assistance programmes and outreach programmes for employers are funded at a higher level than funding for training, education and outreach for workers.



## Information and advisory services on OSH

### **Box 4.5** **Information and advisory services**

Article 4(3)(b) of Convention No. 187 provides that:

The national system for occupational safety and health shall include, where appropriate:

...

(b) information and advisory services on occupational safety and health;

...

348. The effective flow of information is an important foundation for the development of a national preventative safety and health culture.<sup>52</sup> The provision of OSH information is a key component of a national system<sup>53</sup> and, as underscored in the preparatory work for Convention No. 187, the dissemination of information can take place through multiple channels.<sup>54</sup> The examination in Chapter III of the right of workers to receive OSH information, and the duty of workers to inform their employer about situations presenting a risk to safety and health, highlighted the importance of information being communicated both ways between workers and employers. As noted in Chapter V, the labour inspectorate also plays a key role in disseminating information on safety and health.

349. Information and advisory services, including national information centres, play an important role in facilitating the flow of OSH information. In this respect, the preparatory work for Convention No. 187 explained that national OSH information centres may be independent or part of national authorities, and that they perform the important function of providing practical information on OSH risks and how they can be controlled effectively, including through national databases of OSH literature and research.<sup>55</sup> National specialized bodies, such as central OSH agencies, dedicated institutes and occupational health services, play a key role in conveying guidance and information on how to apply OSH requirements, and facilitate broad access to reliable OSH knowledge.<sup>56</sup>

350. A significant number of governments reported that their national OSH system includes information and advisory services, reflecting the importance of such services.<sup>57</sup> For example, the Government of *Zimbabwe* reported that the national social security authority has an information centre on OSH, which disseminates information through a semi-annual magazine, posters, conferences, workshops and seminars. The Government of *Iraq* reported that the National Centre for Occupational Health and Safety conducts courses and seminars with a view to promoting a national preventative OSH culture, and that it publishes and distributes leaflets, posters and folders. The Government of *Mauritius* indicated that the OSH inspectorate includes an information centre on safety and health at work which provides training and education. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that the National Occupational Safety

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<sup>52</sup> Article 3(3) of Convention No. 187.

<sup>53</sup> Article 4(3)(b) of Convention No. 187.

<sup>54</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 56.

<sup>55</sup> *ibid.*, para. 57.

<sup>56</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 112–113.

<sup>57</sup> For example, *Antigua and Barbuda, Bahrain, Belgium, Cyprus, Finland, Iraq, Mauritius, Saudi Arabia, Togo and Zimbabwe*.

Research Institute in *Ukraine* undertakes research on numerous topics, including the prevention of accidents and emergencies in mining and construction.

351. Certain governments and organizations indicated that special advisory and information services exists for specific sectors. The Government of *Austria* reported that the construction guild has created a specific portfolio presenting comprehensive information on safety and health in construction. The Government of *Suriname* indicated that it has set up mining service centres to address hazardous health conditions in small-scale mining. The Government of *Pakistan* reported that provincial agriculture departments provide information on health and safety in agriculture through seminars, mass media, bulletins, publications and general awareness programmes, while the Swiss Union of Peasants (USP) reported that the agricultural accident prevention advisory centre and the foundation for agricultural safety have together formed a centre of expertise on prevention in agriculture in *Switzerland*.

352. *Recalling that the flow and availability of information remains an important component of a national preventative safety and health culture, the Committee welcomes the initiatives implemented in this regard and encourages governments, in consultation with employers' and workers' organizations, to continue to take measures to ensure that OSH information is available, accessible and communicated in a comprehensible manner, including through the establishment and strengthening of information and advisory services.*

## 2. Assessment of occupational risks and hazards

### Measures to promote risk assessment

#### Box 4.6 Measures to promote risk assessment

Article 3(3) of Convention No. 187 provides that:

In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic *principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.*

353. Preventing occupational accidents and diseases first requires the identification of hazards, followed by the determination of measures to address them. Accordingly, risk assessment, as a principle and a practice, is essential to the preventative approach to safety and health. Convention No. 187 provides that the assessment of occupational risks or hazards is a basic principle that shall be promoted through the national OSH policy,<sup>58</sup> and the national programme on occupational safety and health should according to Recommendation No. 197 be based on the principles of the assessment and management of hazards and risks, in particular at the workplace level.<sup>59</sup> Reflecting the importance of prevention in the sectoral instruments, the key concept of assessment is also reflected in these standards.

354. At the workplace, risk assessment is a practical tool for improving safety and health. It consists of a process of identifying hazards, analysing and evaluating the risk associated

<sup>58</sup> Article 3(3) of Convention No. 187.

<sup>59</sup> Paragraph 7 of Recommendation No. 197.

with the hazards identified and determining the appropriate manner to eliminate or control the hazard. It is indeed a continual process that consists in the careful examination of what could cause harm to people and that enables a consideration of whether enough precautions are in place or whether more should be done to prevent harm to those at risk, including workers and members of the public. The five main steps for a successful risk assessment at the workplace are: (1) identify the hazards; (2) identify who might be harmed and how; (3) evaluate the risk and identify and decide on the safety and health risk control measures; (4) record who is responsible for implementing which control measures, and the time frame; and (5) record the findings, monitor and review the risk assessment and update when necessary.<sup>60</sup>

355. In this respect, the Committee welcomes the fact that numerous countries reported the promotion of risk assessment,<sup>61</sup> with a significant number of governments indicating that, under their national legislation, employers are required to undertake risk assessments.<sup>62</sup> For example, in *Spain*, the Act on occupational risk prevention provides that early planning, risk assessment and the elaboration of a coherent system of preventative measures are the essential elements of effective occupational risk prevention at the enterprise level. Employers must make an initial assessment of the risks to the safety and health of workers, taking into account the nature of the activity, the characteristics of the work and the workers performing them, the equipment used and the chemicals and other substances present in the workplace. The assessment should be updated when working conditions change, and the employer must undertake the necessary preventive activities to eliminate or reduce the risks identified.<sup>63</sup> In *Mauritius*, the OSH legislation provides that employers shall, within 30 days of the start of operations, undertake an assessment of any risk to the safety and health of workers and identify the measures to be implemented. The employer is required to keep a register of the findings of the assessment.<sup>64</sup> The Government of *Mexico* reported that, pursuant to the Regulations on safety and health at work, employers must develop a safety and health diagnosis to identify unsafe or hazardous conditions, as well as physical, chemical or biological agents or ergonomic and psychosocial risks, and prepare a plan documenting the preventive and corrective measures to be taken.

356. Governments also reported on practical measures being taken to promote the implementation of risk assessment at the level of the undertaking, particularly in SMEs. For example, the Government of *Greece* reported that, in cooperation with the Hellenic OSH Institute, an online interactive tool for the assessment of risks in small and very small enterprises is available, aimed at helping such enterprises assess risks at the workplace, monitor procedures, prepare reports and make decisions for the implementation of preventive measures against such risks. The Government of the *Republic of Korea* reported that, in order to promote risk assessment among small enterprises, it has implemented various support programmes, including consultation and education on risk

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<sup>60</sup> ILO: *A 5 Step Guide for Employers, Workers and Their Representatives on Conducting Workplace Risk Assessments* (Geneva, 2014).

<sup>61</sup> See, for example, *Australia, Bahrain, Belarus, Belgium, China, Colombia, Croatia, Denmark, Finland, Germany, Greece, Iceland, Iraq, Japan, Kenya, Republic of Korea, Mexico, Norway, Philippines, Poland, Republic of Moldova, Saudi Arabia, Singapore, Spain, Togo, Ukraine, United Kingdom, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam* and *Zimbabwe*.

<sup>62</sup> See, for example, *Bahrain, Belarus, Belgium, China, Croatia, Denmark, Finland, Germany, Iceland, Iraq, Japan, Kenya, Republic of Korea, Mauritius, Mexico, Norway, Philippines, Poland, Republic of Moldova, Singapore, Spain, Togo, Ukraine, United Kingdom, Uzbekistan, Bolivarian Republic of Venezuela* and *Viet Nam*.

<sup>63</sup> Section 16 of Act No. 31/1995 on occupational risk prevention.

<sup>64</sup> Sections 10 and 11 of the Occupational Safety and Health Act 2005.

assessments, and awards specific recognition for work sites that conduct such assessments. The Government of the *Netherlands* reported that it has prepared approximately 150 tools for risk assessment for use in specific branches, agreed upon by the social partners.

357. Concerning the importance of this process, the joint observations of the Confederation of German Employers' Associations (BDA) and the IOE stated that the obligation of employers' to conduct risk assessments constitutes the central pillar of OSH in enterprises in *Germany*. Risk assessments that are conducted on the basis of specified procedures are used to reveal existing hazards in the workplace so that appropriate protective measures can be taken. The promotion of risk assessments is one of the main goals of the Joint German OSH Strategy, and accident insurance institutions, employers' associations and trade unions promote and provide guidance on such assessments.

358. Certain workers' organizations highlighted issues concerning the conduct of risk assessments in practice. The Federation of Korean Trade Unions (FKTU) indicated that, while risk assessments are required in all workplaces by law, they are not undertaken in practice. The FKTU stated that inspections in this regard are not sufficient, as there are no provisions penalizing non-compliance. The National Confederation of United Independent Unions (CONUSI) also emphasized that no risk assessment activities are carried out in *Panama*. In their joint observations, the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that preventative risk management is not widely applied in *Ukraine*. Moreover, workers and their occupational safety representatives were not involved in the risk assessment process; they are not consulted and their views are not taken into consideration by employers or state supervisory bodies.

## Construction

359. Convention No. 167, as the oldest of the instruments examined, refers to assessment at the national level of the safety and health hazards involved in the construction sector and, with respect to the workplace, requires only that precautions be taken to ensure that all workplaces are safe and without risk of injury to the safety and health of workers.<sup>65</sup> Recommendation No. 175 adds that construction work should be planned, prepared and undertaken in such a way that: risks liable to arise at the workplace are prevented as soon as possible; excessively or unnecessarily strenuous work positions and movements are avoided; the organization of work takes into account the safety and health of workers; materials and products are used which are suitable; and working methods are employed which protect workers.<sup>66</sup>

360. Numerous governments reported taking measures to promote the undertaking of risk assessments in the construction sector.<sup>67</sup> For example, the Government of *Bahrain* reported that, in addition to requirements in all sectors, the regulations concerning the protection of workers in construction, building and civil engineering works require the assessment of all worksite hazards and in particular of hazards related to heights, and the measures previously taken to address risks be assessed. The Government of *Greece* reported that in accordance with the OSH legislation, all employers should have a written assessment of the risks to safety and health at work, carried out by qualified personnel, and that, pursuant to the safety and health requirements at temporary or mobile construction sites, the project contractor (or the owner of the project) shall ensure the

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<sup>65</sup> Articles 4 and 13 of Convention No. 167.

<sup>66</sup> Paragraph 9 of Recommendation No. 175.

<sup>67</sup> See, for example, *Argentina, Australia, Austria, Bahrain, China, Croatia, Greece, France, Peru and Spain*.

preparation of a safety and health plan and of a safety and health file based on the assessment. In the *Republic of Moldova*, the National Confederation of Trade Unions of Moldova (CNSM) reported that risk assessments are undertaken in the construction sector, and unions provide support in this regard. Moreover, the Australian Council of Trade Unions (ACTU) indicated that, in the building and construction industry in *Australia*, unions and employers have made a concerted effort to ensure that the assessment of occupational risks and hazards is mandatory in training for qualifications for the industry. The Committee accordingly observes that, although Convention No. 167 does not explicitly refer to undertaking risk assessments, this appears to be a common good practice in the construction sector.

## Mining

361. Convention No. 176 provides that, in taking preventive and protective measures, the employer shall assess the risk and deal with it in the following order of priority: eliminate the risk; control the risk at source; and minimize the risk by means that include the design of safe work systems.<sup>68</sup>

362. Certain governments reported that specific measures have been taken to promote risk assessment in the mining sector.<sup>69</sup> The Government of *Australia* reported that risk assessment is a central component of mine safety legislation, with additional risk assessment duties applying to certain mines, particularly underground and large open cut mines. These duties include the development of a comprehensive and systematic safety assessment for major mining hazards. The Government of *Iceland* reported that, pursuant to the requirement to improve safety and health protection for workers in surface and underground mineral-extraction industries, employers in mining shall ensure that a document on safety and health is drawn up and kept up to date. The document must include an assessment of the risks to which workers at the mining workplace are exposed.

363. The IOE observed that the progress made in the global mining industry in recent years has been linked to the introduction of procedures such as assessment, and that companies in the mining industry are therefore able to rehearse the type of behaviour needed to reduce risk. The Committee recalls in this respect the practical guidance contained in the Code of practice on safety and health in underground coalmines related to hazard identification, risk assessment and control.<sup>70</sup>

## Agriculture

364. In accordance with Convention No. 184, laws and regulations or the competent authority shall require the employer to carry out appropriate risk assessments in relation to the safety and health of workers and, based on the results, adopt preventive and protective measures. Acknowledging the diversity of undertakings in the sector, the Convention provides that these obligations shall be prescribed taking into account the size of the undertaking and the nature of its activity.<sup>71</sup>

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<sup>68</sup> Article 6(a)–(c) of Convention No. 176.

<sup>69</sup> See, for example, *Argentina, Australia, Chile, Denmark, Ecuador, Greece, Iceland, Japan, Peru and Republic of Korea*.

<sup>70</sup> ILO: *Code of practice on safety and health in underground coalmines*, Sectoral Activities Programme, ILO (Geneva, 2006), paras 5.2.1–5.2.6.

<sup>71</sup> Article 7 of Convention No. 184.

365. A few governments reported on legislative measures requiring employers in agriculture to undertake risk assessments,<sup>72</sup> while certain governments indicated that measures are being taken to promote and support risk assessments in the sector.<sup>73</sup> For example, the Government of *Ethiopia* reported that in the agriculture sector, particularly horticulture farms, an assessment of occupational risks and hazards must be carried out twice a year for enterprises to qualify for recognition under a local standard in the horticulture sector. The Government of *Turkey* reported that manuals for risk assessment have been developed to provide guidance for six branches of agriculture.

366. Certain employers' and workers' organizations highlighted the difficulties of undertaking risks assessments in the sector. The National Confederation of Trade Unions of *Moldova* (CNSM) indicated that risk assessments are not performed in agriculture in the *Republic of Moldova*, and no action has been taken to promote risk assessments in the respective workplaces. The IOE, in highlighting certain difficulties with respect to Convention No. 184, observed that the Convention assumes that farmers have sufficient infrastructure to conduct risk assessments.

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***367. The Committee considers that promoting the assessment of occupational risks and hazards, as described above, is a basic principle of occupational safety and health and a crucial element for the development of a safety and health culture. Emphasizing that risk assessment is the key first step in the prevention of occupational accidents and diseases, and assessments constitute a vital tool for improving safety and health conditions at the workplace and a central element of safety and health management, the Committee encourages governments, in consultation with employers' and workers' organizations, to make efforts in this regard.***

## Measures aimed at minimizing or eliminating risks to workers

368. Once work-related hazards and risks are identified, the protection of workers necessitates measures for their elimination or minimization. In this spirit, under Convention No. 187, the elimination and minimization of hazards and risks, so far as is reasonably practicable, is an essential component of the national OSH programme in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace.<sup>74</sup> The importance of eliminating and minimizing hazards is also reflected in the sectoral Conventions.

369. Numerous governments reported legislation requiring that measures be taken to eliminate or minimize risks in the workplace, which are normally linked to the requirement of conducting risk assessments.<sup>75</sup> For example, in *Singapore*, workplace safety and health regulations on risk management provide that the employer, self-employed person or principal shall, on the basis of a risk assessment, take all reasonably practicable steps to eliminate any foreseeable risk to persons in the workplace. Where it is not reasonably practicable to eliminate a risk, they shall implement such reasonably practicable measures to minimize the risk and establish safe work procedures to control the risk. The legislation

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<sup>72</sup> For example, *Argentina* and *Austria*.

<sup>73</sup> For example, *Ethiopia*, *Germany* and *Turkey*.

<sup>74</sup> Article 5(2)(b) of Convention No. 187.

<sup>75</sup> For example, *Belgium*, *Finland*, *Germany*, *Hungary* and *Kenya*.

explains that these measures may include substitution, engineering control, administrative controls or the provision and use of suitable personal protective equipment.<sup>76</sup> In *Belgium*, the national legislation requires employers, on the basis of a risk assessment, to adopt preventive measures for each group of workstations or, in relation to individual functions, steps relating to the organization of the enterprise and the methods of work and production, including measures to change the lay-out of the workplace, adapt workstations, examine the work equipment and chemical substances used and take protective measures against chemical, biological and physical risks. The preventive measures taken to address the risks identified must be contained in the annual action plan to promote welfare at work.<sup>77</sup>

## Construction

370. Convention No. 167 requires that all appropriate precautions be taken to ensure that all workplaces are safe and without risk of injury to the safety and health of workers.<sup>78</sup> In this respect, the preparatory work of the Convention highlighted that accidents in construction are often related to hazards, such as work at heights or the falling of objects, the collapse of excavations and earthworks, the use of fast moving vehicles (which are even more hazardous when operated on rough terrain or with poor visibility), the temporary use of electricity, including the risk of accidental contact with buried cables and overhead power lines, and specific hazards associated with painting and demolition work. The rapid changes in the nature of operations as the work progresses mean that hazards on construction sites change from day to day.<sup>79</sup>

371. The Convention therefore provides that, where a worker is liable to be exposed to any chemical, physical or biological hazard to such an extent as may be dangerous to health, appropriate preventive measures shall be taken against such exposure, including: the replacement of hazardous substances by harmless or less hazardous substances wherever possible; and technical measures applied to the plant, machinery, equipment or process.<sup>80</sup> In this respect certain countries reported additional requirements concerning the elimination and minimization of risks in the construction sector.<sup>81</sup> The Government of *Austria*, for its part, reported that the labour inspectorate and the social partners are involved in campaigns to minimize or eliminate risk on construction sites through information publications and advice campaigns, including taking measures to avoid falls from heights, the safety of ladders and the proper handling of asbestos. In *Finland*, the Decree on safety in construction requires the project supervisor, as systematically as necessary, to analyse and identify the hazards and risks at the site. Such hazards and risks must be eliminated by appropriate means or, when it is not possible to eliminate them, their significance must be evaluated with regard to the health and safety of those working at the site and other persons in the zone affected by the work.<sup>82</sup>

## Mining

372. With respect to mining, Convention No. 176 provides that, in taking preventive and protective measures, the employer shall deal with risks identified first by eliminating the

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<sup>76</sup> Chapter 354A, section 65 of the Workplace Safety and Health Act 2006.

<sup>77</sup> Royal Decree of 27 March 1998 on a policy for the welfare of workers in the performance of their work.

<sup>78</sup> Article 13 of Convention No. 167.

<sup>79</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, Geneva, 1987, pp. 5 and 7–9.

<sup>80</sup> Article 28 of Convention No. 167.

<sup>81</sup> For example, *Belgium* and *Suriname*.

<sup>82</sup> Sections 3(2), 10(2), 33(4) and 70 of the Decree on Safety in Construction, No. 205/2009.

risk, then by controlling the risk at source, followed by the minimization of the risk by measures that include the design of safe work systems. Where workers are exposed to physical, chemical or biological hazards, the employer shall take appropriate measures to eliminate or minimize the risks resulting from exposure to those hazards.<sup>83</sup> In the mining sector, these hazards may include: airborne dusts; flammable, toxic, noxious and other mine gases; fumes and hazardous substances; exhaust fumes from diesel engines; oxygen deficiency; radiation from rock strata, equipment or other sources; noise and vibration, extreme temperatures; high levels of humidity; insufficient lighting or ventilation; hazards related to work carried out at high altitudes or extreme depths, or in confined spaces; hazards associated with manual handling; hazards related to mechanical equipment and electrical installations; and hazards resulting from a combination of any of these.<sup>84</sup>

373. Certain countries reported specific requirements relating to the elimination and minimization of risks in mining.<sup>85</sup> For example, the regulations on safety and health in mining in *Peru* require the holder of the mining permit to identify the hazards present in the mine and then take measures to control, correct and eliminate the risks in the following order: elimination, or substitution of the hazard; engineering controls; administrative controls as well as signs and warnings; and, finally, the provision of personal protective equipment.<sup>86</sup> In *Finland*, the mining legislation provides that, when ensuring mining safety, the mining operator shall: identify hazards; eliminate hazards or, if that is not feasible, define safety objectives concerning the limitation of hazards and undertake measures to limit the detrimental consequences caused by hazards so as to render them as minimal as possible; implement measures necessary for the prevention of accidents and prepare for rescue measures; implement generally effective measures prior to individual ones; and take account of the development of technology and other methods available. The mining operator shall maintain an up-to-date account of the assessment.<sup>87</sup> The Government of *Greece* reported that, in addition to employers' obligations regarding the identification of risks and measures for their elimination or minimization, the mining regulations require the provision of recommendations and advice by a technical safety officer, verified by a mine inspector, concerning among others, information and guidance on the prevention of occupational hazards.<sup>88</sup>

## Agriculture

374. With a view to the minimization and elimination of risks in agriculture, Convention No. 184 requires that preventive and protective measures be taken pursuant to appropriate risk assessments undertaken.<sup>89</sup> These measures should include risk assessment and management measures in the following order of priority: elimination of the risk; control of the risk at the source; minimization of the risk by such means as the design of safe work systems; and the introduction of technical and organizational measures and safe practices and training.<sup>90</sup> With respect to the agricultural sector, certain governments reported

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<sup>83</sup> Articles 6, 7 and 9 of Convention No. 176.

<sup>84</sup> Recommendation No. 183.

<sup>85</sup> For example, *Greece*, *Japan* and *Peru*.

<sup>86</sup> Sections 88–89 of Supreme Decree No. 055-2010-EM approving the Regulations on occupational safety and health and other complementary measures in mining.

<sup>87</sup> Sections 113–114 of the Mining Act No. 621/2011.

<sup>88</sup> Section 17 of the Regulations on mining and quarrying works, 2011.

<sup>89</sup> Article 7 of Convention No. 184.

<sup>90</sup> Paragraph 5 of Recommendation No. 192.



specific measures to minimize risks related to pesticides.<sup>91</sup> For example, the Government of *Japan* reported that guidelines have been formulated for the safety of those engaged in spraying pesticides, and safety measures implemented, including the formulation of spraying plans. The Government of *Myanmar* indicated that, under the legislation on pesticides, training for certified pesticide operators includes courses on the handling and application of pesticides aimed at minimizing or eliminating the risk to workers.

375. With regard to the climate, rural workers are exposed to weather and environmental factors as they carry out their work. In particular, ambient air temperature, humidity, wind, dust storms, precipitation and solar radiation are important potential hazards. Most agricultural activity occurs out of doors and is subject to ambient thermal, environmental and lighting conditions, although some agricultural enterprises control such factors by using greenhouses, tunnels and conditioned caves.<sup>92</sup>

## New and emerging risks

376. While Convention No. 187 provides that the national programme shall contribute to the protection of workers by eliminating or minimizing work-related hazards and risks, Recommendation No. 197 highlights the importance of identifying new and emerging hazards and risks in the workplace. In this respect, the preparatory work for the Convention underlined the important role that national programmes, if based on sufficient and timely data, can play in addressing emerging occupational diseases, particularly those of a psychosocial nature.<sup>93</sup> In this respect, the Committee notes that a number of governments have taken preventive measures to address psychosocial hazards and risks<sup>94</sup> through their national OSH programmes, as well as other initiatives, including the sensitization of the labour inspectorate on the issue.<sup>95</sup>

377. The Committee welcomes such initiatives, recognizing that the way in which work is organized and managed has changed fundamentally over the last few decades, raising new OSH questions. An accelerating trend towards digitalization has led to new working models, accompanied by new risks, including a rise in psychosocial hazards caused by, among other factors, poor work design, the lack of a social work context, the proliferation of information and communication technology (ICT) and the emergence of new forms of employment, including the so-called platform economy. For example, though ICT provides workers with an opportunity to better respond to the demands of private life and offers the opportunity to work wherever convenient and best suited to the nature of the task, it has also resulted in the boundaries between private life and work becoming

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<sup>91</sup> For example, *Belgium, Japan, Myanmar and Ukraine*.

<sup>92</sup> ILO: *Code of practice on safety and health in agriculture, Sectoral Activities Programme* (Geneva, 2010), section 17.1.1.

<sup>93</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, Geneva, 2005, para. 83. The Report noted, in this respect, components of the OSH programmes of Denmark, Japan and the European Union addressing specifically psychosocial risks, Annex I, pp. 35, 39 and 48.

<sup>94</sup> Psychosocial hazards are “interactions between and among work environment, job content, organizational conditions and workers’ capacities, needs, culture, personal extra-job considerations that may, through perceptions and experience, influence health, work performance and job satisfaction”. ILO: *Workplace Stress, a collective challenge* (Geneva, 2016), p. 2.

<sup>95</sup> For example, *Colombia* and *Spain*. See also *Austria* – CEACR, Convention No. 81, observation, published in 2011; *Belgium* – CEACR, Convention No. 81, direct request, published in 2016; *Denmark* – CEACR, Convention No. 155, direct request, published in 2012; *El Salvador* – CEACR, Convention No. 129, direct request, published in 2016; *Greece* – CEACR, Convention No. 81, direct request, published in 2013.

increasingly blurred.<sup>96</sup> Moreover, with respect to the increasing emergence of crowdwork,<sup>97</sup> studies have indicated that psychosocial risks for crowdworkers include the requirement to perform work on very short notice, and that ratings from clients lead to additional pressure as they may determine not only whether the worker is in a position to charge a reasonable rate, but also whether he will continue to receive work at all.<sup>98</sup>

378. Technical innovation, including the introduction of new technologies such as nanotechnology and biotechnology, can involve new occupational risks, and rapid advancements may mean the introduction of technology before the risks to workers are fully understood.<sup>99</sup> The growing use of cyber-physical systems (intelligent robotic systems) in manufacturing raises new issues in the field of OSH. Such systems can have beneficial effects in relation to safety, for example with regard to work that involves the lifting of heavy weights. However, the high level of dynamism in the workplace as well as the physical impact that the action of robots has on the surrounding area require continual assessment to monitor possible risks to workers.

379. For addressing new and growing risks, including those mentioned above, the national policy process is an essential framework, with its emphasis on continual improvement and periodic review based on an analysis of the national situation. Moreover, new realities in the workplace, and the accompanying risks, should be considered within the development, in consultation with the social partners, of the national OSH system. The progressive development and periodic review of the national OSH system offers an important opportunity for a balanced approach that ensures that changing work realities do not jeopardize the safety and health of workers. This can include reviewing existing legal frameworks, as well as examining the application of established practices to new forms of work, including digital work. The formulation and adoption of national OSH programmes enables the implementation of targeted measures to address risks, including psychosocial risks, and sufficient and accurate data is essential in this respect.

**380. *The Committee recalls the importance of addressing emerging workplace hazards and risks by continuously building and strengthening a preventative safety and health culture.***<sup>100</sup>

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<sup>96</sup> ILO: *Workplace Stress, a collective challenge* (Geneva, 2016), p. 4. For example, according to a recent study that covers, among others, all Member States of the European Union, working in one's leisure time to meet work demands is carried out by almost one worker in five several times a month (Eurofound, Sixth European Working Conditions Survey, 2015).

<sup>97</sup> The term refers to working activities that imply completing a series of tasks through online platforms.

<sup>98</sup> European Agency for Safety and Health at Work, Discussion Paper, A Review on the Future of Work: Online Labour Exchanges or "Crowdsourcing": Implications for Occupational Safety and Health, 2015.

<sup>99</sup> ILO: *Emerging risks and new patterns of prevention in a changing world of work* (Geneva, 2010), pp. 2–4.

<sup>100</sup> ILO: *General Survey on occupational safety and health*, 2009, para 8.

## Personal protective equipment and clothing

### **Box 4.7** **Personal protective equipment and clothing**

#### **Construction**

Article 30(1) of Convention No. 167 provides that:

Where adequate protection against risk of accident or injury to health, including exposure to adverse conditions, cannot be ensured by other means, suitable personal protective equipment and protective clothing, having regard to the type of work and risks, shall be provided and maintained by the employer, without cost to the workers, as may be prescribed by national laws or regulations.

#### **Mining**

Articles 6(d) and 9(c) of Convention No. 176 provide that:

##### **Article 6(d)**

In taking preventive and protective measures under this Part of the Convention the employer shall assess the risk and deal with it in the following order of priority:

...

- (d) in so far as the risk remains, provide for the use of personal protective equipment, having regard to what is reasonable, practicable and feasible, and to good practice and the exercise of due diligence.

##### **Article 9(c)**

Where workers are exposed to physical, chemical or biological hazards the employer shall:

...

- (c) where adequate protection against risk of accident or injury to health including exposure to adverse conditions cannot be ensured by other means, provide and maintain at no cost to the worker suitable protective equipment, clothing as necessary and other facilities defined by national laws or regulations;

...

#### **Agriculture**

Paragraph 5(b)(iv) of Recommendation No. 192 provides that:

To give effect to Article 7 of the Convention, a set of measures on safety and health at the level of the undertaking should include:

...

- (iv) in so far as the risk remains, provision and use of personal protective equipment and clothing, at no cost to the worker;

...

381. Protective measures are the essential last step in preventing accidents or injury to health. In this respect, the sectoral instruments identify that the provision of suitable personal protective equipment and clothing to be absolutely necessary when risks cannot be adequately addressed through measures to eliminate or minimize them.<sup>101</sup>

382. The Committee welcomes that numerous countries reported on legislative measures requiring the provision of personal protective equipment to workers.<sup>102</sup> For example, in *Ethiopia*, the employer is required to provide workers, free of charge, with protective

<sup>101</sup> In addition, the Guidelines on occupational safety and health management systems (ILO–OSH 2001) provide that, where residual hazards/risks cannot be controlled by collective measures, the employer should provide for appropriate personal protective equipment, including clothing, at no cost, and should implement measures to ensure its use and maintenance (paragraph 3.10.1.1).

<sup>102</sup> For example, *Austria, Bahrain, Belarus, Belgium, China, Colombia, Cuba, Cyprus, Denmark, Ethiopia, Germany, Greece, Honduras, Iceland, Indonesia, Iraq, Kenya, Republic of Korea, Mauritius, Republic of Moldova, Nicaragua, Poland, Qatar, Spain, Suriname, Ukraine, United Kingdom and Bolivarian Republic of Venezuela*.

equipment and clothing and to instruct them on its use,<sup>103</sup> and the Government reported that labour inspectors conduct planned inspections examining the delivery and proper use of such equipment. In *Ukraine*, the employer must ensure, at no expense to the worker, the purchase, acquisition, delivery and maintenance of personal protective equipment, and any such clothing or equipment paid for by the employee must be reimbursed.<sup>104</sup> The Government of *Ukraine* reported in this regard that regulations have been adopted concerning specific clothing, footwear and other personal protective equipment.

383. In addition, certain governments have also reported the establishment of specific requirements in relation to construction, agriculture or mining. For example, the construction regulations prescribe the provision of personal protective equipment in that sector, while the Decree on safety in construction in *Finland* contains detailed requirements related to personal protective equipment, with inspections monitoring that such equipment is appropriate for its purpose and in compliance with the prescribed requirements.<sup>105</sup> With respect to mining, Convention No. 176 underlines that personal equipment shall be provided having regard to what is reasonable, practicable and feasible. For example, the regulations for mining and quarry works in *Greece* require employers to provide every worker with appropriate protective equipment (acknowledged by the worker in writing), detailing specifically the equipment that shall be provided, and the frequency, based specifically on the working conditions and the risks present.<sup>106</sup> With respect to agriculture, the Government of *Mauritius* reported that, pursuant to legislation concerning the sugar industry, every worker engaged in spraying herbicides or pesticides shall be provided with the necessary protective equipment.

384. Observations provided by several workers' organizations underlined difficulties in the provision of personal protective equipment. The New Zealand Council of Trade Unions (NZCTU) indicated that, despite legislative requirements in *New Zealand* relating to the provision of personal protective equipment, in many industries there is widespread non-compliance with the law. The NZCTU added that labour hire companies sometimes require employees to provide their own personal protective equipment, or charge employees for the provision of personal protective equipment. The National Confederation of United Independent Unions (CONUSI) indicated that employers in *Panama* often do not provide the required protective equipment. According to the Australian Council of Trade Unions (ACTU), employers often do not provide the required personal protective equipment in *Australia*, especially in relation to certain groups of workers, including casual workers and workers incorrectly classified as independent contractors. The Confederation of Workers of Argentina (CTA Autonomous) indicated that a

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<sup>103</sup> Section 92 of Labour Proclamation No. 377/03, 2003.

<sup>104</sup> Section 8 of the Law on Labour Protection.

<sup>105</sup> Sections 14 and 17 of the Decree on Safety in Construction, No. 205/2009.

<sup>106</sup> Pursuant to section 8 of the Regulations on mining and quarrying works, 2011, the employer shall provide the following protective equipment: a helmet; at least one pair of reinforced toe anti-skid boots annually, in case there is a risk of objects or materials falling; at least one pair of reinforced toe high rubber boots annually, for all workers in positions where mud or water are present; at least one full body and fitted pair of overalls every semester for all workers working at workstations near rotating machine parts; one raincoat in workstations where water or mud falls or is ejected; a pair of suitable gloves, as appropriate; a pair of goggles or mask, as appropriate, for all workers at workstations with specified conditions; a suitable mask as appropriate for all workers in workstations where dust or vapours or gases are generated; a suitable mask for all workers in workstations where dust or vapours or gases are generated; a pair of suitable ear protectors or earplugs for all workers at workstations where the noise level exceeds the permissible limits; a safety belt or other fall protection system for all workers at workstations where there is a risk of falling; a personal electric lamp for all workers in underground works or wherever it is needed; a reflective jacket or other means for all workers in areas where there is frequent movement of machinery and the visibility is poor; and anything else necessary to address risks from specific works.

contributing factor to the high number of occupational accidents in mining is the lack of adequate personal protective equipment, especially when workers are employed in harsh working conditions.

*385. The Committee recalls that, while priority is given to eliminating and minimizing risks, the adoption of effective protective measures remains an essential level of protection of workers for the prevention of occupational accidents and diseases. Noting the large number of countries reporting legislative requirements relating to the provision of personal protective equipment and clothing at no cost to the worker, the Committee calls on governments to ensure that these requirements are implemented in practice in relation to all workers, including those in non-standards forms of employment.*

### **3. Other prevention and protection measures**

#### **Health and safety requirements related to the handling and disposal of hazardous substances and waste**

386. Each of the sectors covered by the present Survey involve work with hazardous substances and waste. The respective Conventions therefore contain requirements on measures to protect workers in the handling of such substances. In this regard, a number of governments reported the legislative measures adopted on the handling and disposal of hazardous substances,<sup>107</sup> with a number of countries adding that specific measures have been taken in this respect in construction, mining and agriculture.

387. With respect to construction, Convention No. 167 focuses on the disposal of waste, providing that it shall not be destroyed or otherwise disposed of on a construction site in a manner that is liable to be injurious to health.<sup>108</sup> Recommendation No. 175 adds that the health of workers and of the public and the preservation of the environment should be safeguarded in the removal and disposal of waste, as prescribed by national laws and regulations.<sup>109</sup>

388. Certain countries reported the adoption of specific measures regarding the removal and disposal of hazardous waste in construction, including the Governments of *Belarus, Belgium, China, Cyprus* and *Spain*. Some countries provided information on additional requirements relating to the disposal of asbestos, a substance posing a specific risk to workers in construction.<sup>110</sup> For example, the Government of *Greece* referred to specific precautions that must be taken by enterprises engaged in demolition and the removal of asbestos and/or asbestos containing materials from buildings, construction and equipment.<sup>111</sup> The Government of *Poland* referred to the ordinance on the safe management of asbestos, which outlines the specific obligations of contractors with respect to the methods for the safe handling and disposal of products containing asbestos, the preparation of such products for transport, and the transportation of products and waste

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<sup>107</sup> For example, *Austria, Bahrain, Belgium, China, Croatia, Norway, Poland, Qatar, Republic of Korea, Singapore, Suriname* and *Uganda*.

<sup>108</sup> Article 28 of Convention No. 167.

<sup>109</sup> Paragraph 41(3) of Recommendation No 175.

<sup>110</sup> For example, *Greece, Iceland, Poland* and the *United Kingdom*.

<sup>111</sup> Conditions for the establishment and operation of enterprises engaged in carrying out demolition and asbestos removal work and/or materials containing asbestos (JMD 4229/395/2013).

containing asbestos to storage. In this connection, the Committee recalls the provisions contained in the Asbestos Convention, 1986 (No. 162), particularly concerning the demolition of plants or structures containing friable asbestos insulation materials, and the removal of asbestos from buildings or structures in which asbestos is liable to become airborne.<sup>112</sup>

389. The Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) indicated that several regulations on the use of hazardous substances are not applied in practice by the majority of construction enterprises in the *Dominican Republic*. The Union of Forestry Department Employees Sarawak (UFES) in *Malaysia* indicated that there was a lack of protection measures in construction in relation to asbestos, demolition waste and chemical wastes. The New Zealand Confederation of Trade Unions (NZCTU) expressed support for the introduction of stronger and more prescriptive regulations for work involving asbestos in *New Zealand*.

390. In relation to hazardous substances in mining, Convention No. 176 provides that national laws and regulations shall specify the requirements for the safe storage, transportation and disposal of hazardous substances used in the mining process and waste produced at the mine. A few governments reported taking measures specifically with respect to the storage, transportation and disposal of hazardous substances in mining. For example, the Government of *Greece* reported that, in addition to general legislative provisions relating to the handling of hazardous substances and waste, the Regulations on mining and quarrying works contain specific requirements related to the management of mining waste resulting from the extractive industry, as well as other wastes (such as sewage, mineral oils and batteries). The Government of the *Republic of Korea* reported that the rules on mining provide that mining waste and airborne dust shall be collected in separate storage areas and specific measures taken to prevent leakage or escape during transportation, in addition to requirements for the purification, disposal and management of waste water and mine water. These rules provide that hazardous mining waste must be stored at separate storage locations to prevent ground penetration and cannot be buried in mines.

391. With respect to agriculture, the most commonly used hazardous substances in the sector are fertilizers and pesticides,<sup>113</sup> which can present significant risks to workers in the sector if appropriate measures are not taken.<sup>114</sup> Convention No. 184 requires the competent authority to take measures to ensure that there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers so as to avoid their use for other purposes and eliminate or minimize the risks to safety and health and the environment.<sup>115</sup> Moreover, it must be ensured that there are preventive and protective measures for the use of chemicals and the handling of chemical waste at the level of the undertaking, covering: the preparation, handling, application, storage and transportation of chemicals; agricultural activities leading to the dispersion of chemicals; the maintenance, repair and cleaning of equipment and containers for

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<sup>112</sup> Article 17 of Convention No. 162. Convention No. 162 is recalled in the preambles to both Convention No. 167 and Recommendation No. 175.

<sup>113</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 27.

<sup>114</sup> For example, the General Union of Workers (UGT) indicated that *Brazil* is one of the largest consumers of pesticides, which entail serious consequences in terms of OSH in the agricultural sector, in particular linked to pesticide spraying.

<sup>115</sup> Article 12 of Convention No. 184.

chemicals; and the disposal of empty containers and the treatment and disposal of chemical waste and obsolete chemicals.<sup>116</sup>

392. The Committee notes that certain countries reported on the specific protective and preventive measures required by national legislation with respect to hazardous substances in the agricultural sector.<sup>117</sup> For example, the Government of *Ukraine* referred to the law on pesticides and agrochemicals, establishing the requirements for the disposal of pesticides and agrochemicals, including packaging, as well as their transportation, storage, application, disposal and neutralization. The legislation also provides that pesticides must be packaged and labelled in accordance with the relevant rules, and every item accompanied with instructions indicating the methods of use, restrictions and prohibitions on application, the safety measures to be taken, and those for transportation and storage.<sup>118</sup> In *Uganda*, the agricultural chemicals control Act and Regulations establish requirements for the safe handling and disposal of agricultural chemicals, including protective equipment and first-aid facilities for the protection of workers using agricultural chemicals, and specific measures for those engaged in fumigation or the commercial application of chemicals.<sup>119</sup>

**393. *The Committee emphasizes the importance of protecting workers, and when appropriate the environment, from the harmful effects of the handling and disposal of hazardous substances, including asbestos, and calls on governments to take protective and preventive measures in this regard, particularly in light of the specific risks facing workers in the construction, mining and agricultural sectors. In this connection, the Committee draws attention to the requirements in the Chemicals Convention, 1990 (No. 170) and the Asbestos Convention, 1986 (No. 162), as well as the guidance contained in the Chemicals Recommendation, 1990 (No. 177) and the Asbestos Recommendation, 1986 (No. 172), which provide respectively additional indications on measures that can be taken on safety in the use of chemicals at work and asbestos.***<sup>120</sup>

**394. *With reference to Article 12 of Convention No. 184 and Paragraph 41 of Recommendation No. 175, which both underline the relation between workers' health and the protection of the environment through proper disposal of waste, the Committee highlights the importance of the environmental impact of OSH measures.***

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<sup>116</sup> Article 13 of Convention No. 184.

<sup>117</sup> For example, *China, Cyprus, Germany, Iceland, Poland, Uganda and Ukraine*.

<sup>118</sup> Law No. 86/95-BP on Pesticides and Agrochemicals (Consolidation), of 18 March 2004.

<sup>119</sup> The Control of Agricultural Chemicals Act of 5 April 2007.

<sup>120</sup> The Convention provides a number of measures that are to be taken with regard to safety in the use of chemicals: (1) Adoption by the competent authority of a system of classification of all chemicals for labelling and marking and establishment of a chemical safety data sheet containing detailed essential product information; (2) Obligation on the part of suppliers and employers to identify their products in accordance with this data sheet; (3) Imposition of certain responsibilities on employers regarding the time of exposure of their workers to hazardous chemicals, risk assessment, controls, administration of first aids, training delivery, etc. With respect to workers, they have the duty to cooperate with employers and to respect procedures, as well as the right to remove themselves from danger. With regard to the disposal of no longer required hazardous chemicals or their empty containers which may contain residues, they shall be handled or disposed of in a manner which eliminates or minimizes the risk to safety and health, as well as the environment.

## Occupational health services

395. Convention No. 187 highlights occupational health services as an important element of the national OSH system.<sup>121</sup> These are services entrusted with essentially preventive functions, responsible for advising employers, workers and their representatives in the undertaking on the requirements for the establishment and maintenance of a safe and healthy working environment which facilitates optimal physical and mental health in relation to work; as well as on the adaptation of work to the capabilities of workers in the light of their state of physical and mental health.<sup>122</sup> The functions of occupational health services include the identification and assessment of the risks from health hazards in the workplace; surveillance of factors in the working environment and working practices which may affect workers' health; surveillance of workers' health in relation to work; promotion of the adaptation of work to the workers; and participation in the analysis of occupational accidents and occupational diseases.<sup>123</sup>

396. In this respect, a number of governments highlighted the role of occupational health services in their national OSH systems, including the Governments of *Ecuador, Estonia, Hungary, Mexico, Myanmar, Norway, Pakistan, Philippines* and *Uruguay*. For example, the Government of *Estonia* indicated that its OSH strategy, adopted in 2010, identifies occupational health services as a priority. The Government of *Hungary* stated that these services play an important role in creating healthy and safe working conditions, and their provision is mandatory for all employers.

## Adequate supply of safe drinking water and adequate welfare facilities at workplaces

### Box 4.8 Adequate supply of safe drinking water and adequate welfare facilities at workplaces

#### Construction

Article 32 of Convention No. 167 provides that:

1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water shall be provided.
2. At or within reasonable access of every construction site, the following facilities shall, depending on the number of workers and the duration of the work, be provided and maintained:
  - (a) sanitary and washing facilities;
  - (b) facilities for changing and for the storage and drying of clothing;
  - (c) accommodation for taking meals and for taking shelter during interruption of work due to adverse weather conditions.
3. Men and women workers should be provided with separate sanitary and washing facilities.

#### Mining

Article 5(4)(e) of Convention No. 176 provides that:

4. Such national laws and regulations shall specify:

<sup>121</sup> Article 4(3)(d) of Convention No. 187.

<sup>122</sup> Article 1 of the Occupational Health Services Convention, 1985 (No. 161). Convention No. 161 is identified in the Annex to Recommendation No. 197 as an ILO instrument relevant to the promotional framework for OSH.

<sup>123</sup> Article 5 of Convention No. 161.



- ...
- (e) where appropriate, an obligation to supply sufficient sanitary conveniences and facilities to wash, change and eat, and to maintain them in hygienic condition.

### **Agriculture**

Article 19 of Convention No. 184 provides that:

National laws and regulations or the competent authority shall prescribe, after consultation with the representative organizations of employers and workers concerned:

- (a) the provision of adequate welfare facilities at no cost to the worker;

...

Paragraph 10 of Recommendation No. 192 provides that:

To give effect to Article 19 of the Convention, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture:

- (a) an adequate supply of safe drinking water;
- (b) facilities for the storage and washing of protective clothing;
- (c) facilities for eating meals, and for nursing children in the workplace where practicable;
- (d) separate sanitary and washing facilities, or separate use thereof, for men and women workers;

...

397. According to the United Nations World Water Development Report, work-related communicable diseases contribute to 17 per cent of the 2.3 million work-related deaths annually. The main contributing and preventable factors comprised poor quality drinking water, poor sanitation, poor hygiene and related lack of knowledge. The World Water Development Report indicates that these figures underscore the need for countries to accelerate efforts towards securing safe drinking water and sanitation for all, including in the workplace.<sup>124</sup>

398. In this regard, the sectoral instruments recognize the importance of access to drinking water and adequate sanitary and washing facilities in ensuring a safe and secure working environment.<sup>125</sup> The following paragraphs<sup>126</sup> first examine access to welfare facilities at work, and then the adequate supply of safe drinking water.

## **Welfare facilities**

399. The sectoral instruments each specify that sanitary and washing facilities should be provided to workers in construction, mining and agriculture. Proper hygiene is an important method of controlling hazards and ensuring that any hazardous substances or contaminants at the workplace are not spread to workers' homes. In this respect, numerous countries reported having legislative provisions on the provision of adequate welfare facilities at the workplace, including facilities for taking meals, sanitary facilities and facilities for changing.<sup>127</sup> Legislative provisions in this regard generally refer to all sectors. For example, the Labour Code of *Antigua and Barbuda* provides that washing facilities

<sup>124</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO): *The United Nations World Water Development Report*, Paris, 2016, p. 5.

<sup>125</sup> The provisions in the sectoral instruments are linked to Paragraph 3(o) of Recommendation No. 164, which provides that measures should be taken in pursuance of the national policy in the field of sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water, and any other welfare facilities connected with occupational safety and health.

<sup>126</sup> Paragraphs 399–404.

<sup>127</sup> For example, *Algeria, Antigua and Barbuda, Australia, Belarus, Belgium, Cyprus, Denmark, Germany, Japan, Iceland, Indonesia, Iraq, Kenya, Mauritius, Morocco, Norway, Poland, Qatar, Turkmenistan, Uganda, Ukraine, United Kingdom, Uzbekistan and Bolivarian Republic of Venezuela*.

shall be provided and maintained at every workplace, as well as accommodation for clothing not worn during working hours, and for the drying of work clothing.<sup>128</sup> The Government of *Kenya* reported that the national OSH legislation requires that sufficient and suitable sanitary conveniences for workers be provided, maintained and kept clean, and that such conveniences shall afford proper separate accommodation for persons of each sex. The legislation of certain countries also contains specific provisions concerning sanitary facilities in construction,<sup>129</sup> mining<sup>130</sup> and agriculture.<sup>131</sup>

400. Certain workers' organizations referred to difficulties in the application of these requirements in practice. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that, while there are standards in the *United States* for sanitation requiring the provision of drinking water, handwashing facilities and toilet facilities, there are significant problems with employer compliance. The Central Organization of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) and the Finnish Confederation of Professionals (STTK) emphasized that men and women must absolutely be provided with separate sanitary, washing and sleeping facilities in *Finland*. According to the Australian Council of Trade Unions (ACTU) the lack of separate facilities for women on construction sites is a significant problem in the sector, and the National Confederation of United Independent Unions (CONUSI) stressed that, although the national legislation in *Panama* provides for separate facilities for women and men in construction, this is only enforced following complaints to the inspectorate. The joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that the lack of adequate sanitary facilities in the construction sector is a significant problem in *Ukraine*, despite legislative requirements. The Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) indicated that there are no specific gender considerations in the national legislation in the *Dominican Republic* regarding sanitary facilities and facilities for changing.

**401. *The Committee recalls that the provision of adequate welfare facilities, including sanitary facilities, plays an important role in preventing work-related communicable diseases and exposure to hazards, and it has a considerable impact on public health. The Committee strongly encourages governments to examine measures that could be taken to ensure the provision of such facilities to all workers. It emphasizes the indications contained in the sectoral instruments concerning the provision of separate washing and sanitary facilities for men and women.***

## Supply of drinking water

402. With respect to construction, Convention No. 167 requires the provision of reasonable access to an adequate supply of wholesome drinking water at every construction site. The preparatory work for the Convention highlighted the non-stationary nature of construction, and that much construction work takes place outside,<sup>132</sup> both factors affecting access to adequate drinking water. Concerning agriculture,

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<sup>128</sup> Section d12 of the Antigua and Barbuda Labour Code, 1975 (Cap. 27).

<sup>129</sup> For example, *Austria, Argentina, Finland, Sweden and United Kingdom*.

<sup>130</sup> For example, *Argentina, Finland and Indonesia*.

<sup>131</sup> For example, *Pakistan*.

<sup>132</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, Geneva, 1987, pp. 5, 6 and 9.

Recommendation No. 192 states that employers should provide an adequate supply of safe drinking water. In this connection, the preparatory work for the instruments on agriculture underlined that agricultural workers are dependent on the general standards of public health services in rural areas, where adequate water supply and sanitation systems are generally insufficient.<sup>133</sup> The mining instruments do not contain specific provisions with respect to the supply of drinking water, but do indicate that sanitary conveniences and facilities should be provided, including facilities for eating.

403. Of the significant number of countries that reported having legislative requirements for the adequate supply of safe drinking water at the workplace, the majority referred to general legislative provisions requiring the supply of water at all workplaces.<sup>134</sup> Nonetheless, reflecting the unique nature of the sectors, a few countries indicated that additional requirements exist relating to the construction<sup>135</sup> and agricultural sectors.<sup>136</sup> For example, while the Workers Protection Act in *Austria* provides that workers are to be provided with drinking water or another non-alcoholic beverage, the Government reported that there were specific requirements that all construction sites must provide workers with an adequate supply of cold drinking water that meets standards of hygiene, or some other wholesome non-alcoholic drink. Specific requirements exist when work is performed under particularly difficult working conditions. Drinking water supply points on construction sites must meet hygiene requirements and supply points for non-drinkable water must be labelled accordingly.<sup>137</sup> The Government of *Cambodia* reported that the provision of safe drinking water for workers in agriculture is mandatory, and that the regulations concerning working and living conditions on plantations contain additional requirements on the provision to agricultural workers of safe drinking water and water for daily use. In *Argentina*, the OSH regulations in agriculture require employers to provide safe drinking water to workers at appropriate locations.<sup>138</sup>

**404. *Recalling the importance to workers' health of the provision of safe drinking water, the Committee encourages governments to examine the measures that could be taken with respect to ensuring access to adequate drinking water at work in practice, bearing in mind the specificities of the construction and agricultural sectors.***

## Certain OSH measures in construction, mining and agriculture

### Design and planning of a construction project

405. As noted in the 2009 General Survey, the elimination at source of potential workplace hazards in installations, arrangements, machinery, equipment and tools, when they are designed and installed, is the most cost-effective approach to prevention. In this connection, Article 9 of Convention No. 167 provides that those concerned with the design and planning of a construction project shall take into account the safety and health of

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<sup>133</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 5.

<sup>134</sup> For example, *Algeria, Antigua and Barbuda, Australia, Austria, Belarus, Belgium, Cambodia, Cyprus, Denmark, Germany, Indonesia, Iraq, Japan, Kenya, Morocco, Poland, Qatar, Saudi Arabia, Spain, Uganda, United Kingdom, Ukraine, Uzbekistan and Bolivarian Republic of Venezuela.*

<sup>135</sup> For example, *Austria, China and Suriname.*

<sup>136</sup> For example, *Argentina, Austria and Cambodia.*

<sup>137</sup> Sections 29 and 33 of the Worker Protection Act, No. 450/1994.

<sup>138</sup> Section 4 of Decree No. 617/97 of 7 July 1997 issuing OSH Regulations in Agriculture.

construction workers in accordance with national laws, regulations and practice. This provision was introduced during the first Conference discussion of the instrument, reflecting general agreement on the need to plan for safety and health from the design stage.<sup>139</sup>

406. The Committee has consistently emphasized the importance of measures to give effect to Article 9, by taking legislative or practical measures.<sup>140</sup> It is pleased to note that a number of governments reported that their legislation contain requirements with respect to taking safety and health into account in the design and planning of construction sites, and reported on the practical measures taken in this regard.<sup>141</sup> For example, the Government of *South Africa* reported the detailed obligations of designers of construction projects, to ensure that safety and health is taken into account at the design stage, with relevant safety and health information being provided to the client.<sup>142</sup> The Government of *Australia* reported that employers that commission construction are required to consult the designer, and designers of structures are required to provide a written report identifying potential safety and health risks related to design. A code of practice on the safe design of structures provides practical guidance to those designing structures (including architects, building designers and engineers) on how to comply with relevant safety and health requirements. The Government of *China* reported that the regulations on the management of occupational safety in construction projects provide that the designer shall develop designs in accordance with the laws, regulations and mandatory standards on construction projects so as to prevent the occurrence of any accidents related to design. Designers must provide advice to builders with respect to ensuring safety and health measures to prevent accidents, and must actively cooperate with construction enterprises in that respect.<sup>143</sup> The Government of *Cyprus* reported that, pursuant to the regulations for temporary or mobile construction sites, the general principles of prevention must be taken into account during the design stage of construction projects, particularly by architectural and other organizations engaged in planning the various operations or stages of work carried out simultaneously or sequentially, and design stage preparations must be integrated into the

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<sup>139</sup> ILO: *Provisional Record* No. 23, Report of the Committee on Safety and Health in Construction, ILC, 73rd Session, Geneva, 1987, para. 57.

<sup>140</sup> See, for example, *Dominican Republic* – CEACR, Convention No. 167, direct request, published in 2014; *Dominican Republic* – CEACR, Convention No. 167, observation, published in 2012; *Kazakhstan* – CEACR, Convention No. 167, direct request, published in 2015; and *Mexico* – CEACR, Convention No. 167, observation, published in 2015.

<sup>141</sup> For example, *Australia, Austria, Belgium, China, Croatia, Cyprus, Greece, Iceland, Republic of Korea, Republic of Moldova, Saudi Arabia, South Africa, Turkmenistan, Ukraine, Uganda, United Republic of Tanzania, and Uzbekistan*.

<sup>142</sup> Specifically, pursuant to the construction regulations under the occupational safety and health legislation, the designer of a structure must inter alia: ensure compliance with the applicable safety standards in the design; make available in a report to the client all relevant health and safety information about the design of the relevant structure that may affect the pricing of the construction work; inform the client in writing of any known or anticipated dangers or hazards relating to the construction work, and make available all relevant information required for the safe execution of the work or when the design is subsequently altered; refrain from including anything in the design of the structure necessitating the use of dangerous procedures or materials hazardous to the health and safety of persons, which can be avoided by modifying the design or by substituting materials; take into account the hazards relating to any subsequent maintenance of the relevant structure; provide in the design for work to be performed to minimize risks; carry out the necessary inspections; and take cognizance of ergonomic design principles. Moreover, the designer is required to ensure that all temporary works are adequately designed.

<sup>143</sup> Section 13 of the Regulations on Occupational Safety Management of Construction Projects of 24 November 2003.

construction site's safety and health plan.<sup>144</sup> In *Algeria*, pursuant to the requirements for the construction sector and public workers, architects and engineers in the construction sector have to integrate preventative measures into the design and planning of projects, and must seek to avoid measures that would involve the use of methods or material that could present a danger to the health or safety of workers.<sup>145</sup>

407. The Committee also notes the observations of the IOE that the prevention of accidents, diseases and harmful effects on the health of workers in the appropriate design and implementation of construction projects is not only a main priority, but also a core value of its members.

408. In this respect, the Committee draws the attention of governments to the useful guidance contained in the ILO Code of practice on safety and health in construction for the designers of buildings, structures or other construction projects.<sup>146</sup>

## Mine rescue and emergency preparedness

### *Emergency response plans*

409. While accidents and disasters can occur in any sector, the risks are particularly acute in mining, and specific procedures and arrangements are required to protect workers in the case of an emergency. As highlighted in the preparatory work “[m]ajor disasters such as explosions, underground fires, falls of ground, rockbursts, inrush of water or semi-solids, often leave underground mineworkers cut off from escape, thousands of metres below the surface, in toxic atmospheres and without the life-sustaining essentials of air, water and food during the lengthy and dangerous rescue attempts”.<sup>147</sup> Procedures to respond to emergencies that arise at the mine, as well as arrangements for the rescue of persons incapacitated or trapped in mines, are therefore an essential component of mine safety.

410. Convention No. 176 requires that employers prepare an emergency response plan, specific to each mine, for reasonably foreseeable industrial and natural disasters.<sup>148</sup> Pursuant to Recommendation No. 183, this plan should include effective site emergency plans; provision for the cessation of work and evacuation of the workers in an emergency; adequate training in emergency procedures and the use of equipment; adequate protection of the public and the environment; and provision of information to, and consultation with, appropriate bodies and organizations.<sup>149</sup>

411. The Committee notes that several governments reported that emergency response plans are required at each mine.<sup>150</sup> For example, the Committee has previously noted with

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<sup>144</sup> Safety and Health at Work (Minimum Requirements for Temporary or Mobile Construction Sites) Regulations, 2015.

<sup>145</sup> Decree No. 05-12 of 8 January 2005 issuing specific health and safety requirements for the building, public works and hydraulic sectors.

<sup>146</sup> See ILO: *Safety and health in construction: An ILO code of practice*, 1992, pp. 8 and 9. In addition, an ILO training package on occupational safety and health for the construction industry targeting workers, clients, contractors, as well as design and project management teams, is available on the ILO website: see [http://www.ilo.org/sector/Resources/training-materials/WCMS\\_161706/lang--en/index.htm](http://www.ilo.org/sector/Resources/training-materials/WCMS_161706/lang--en/index.htm) [last accessed 17 Jan. 2017].

<sup>147</sup> ILO: *Safety and health in mines*, Report V(1), ILC, 81st Session, Geneva, 1994, p. 17.

<sup>148</sup> Article 8 of Convention No. 176.

<sup>149</sup> Paragraph 19 of Recommendation No. 183.

<sup>150</sup> For example, *Australia, Austria, Belarus, China, Denmark, Iraq, Japan, Spain, Ukraine and United Kingdom*. Several other countries reported more generally on mine rescue procedures, including *Croatia, Cyprus, Greece, Iceland and Saudi Arabia*.

interest that underground mines in the *United States* must develop and adopt a written accident response plan that provides for the evacuation of all individuals endangered by an emergency and for the maintenance of individuals trapped underground in the event that they are not able to evacuate the mine. The accident response plan shall be subject to review and approval by the competent authority, taking into consideration comments submitted by miners or their representatives, and shall be reviewed every six months. Plans shall: reflect the most recent credible scientific research; be technologically feasible, make use of current commercially available technology; account for the specific physical characteristics of the mine; and reflect the improvements in mine safety gained from experience.<sup>151</sup>

**412. *As outlined in the introduction to this General Survey, the last decade has seen a number of major mining disasters resulting in the death of numerous workers. Considering these accidents, the Committee calls on all countries with a mining industry to adopt and implement appropriate emergency preparedness and mine rescue measures, including by requiring the development of emergency response plans for every mine.***

*Self-rescue respiratory devices for workers  
in underground mines*

413. Convention No. 176 provides that adequate self-rescue respiratory devices must be provided and maintained for workers in underground coal mines and, where necessary, in other underground mines.<sup>152</sup> To address the specific risk in mining that, during emergencies, the ambient atmosphere becomes toxic, self-rescue respiratory devices are intended to allow a miner to escape the mine in case of danger. The preparatory work for the Convention reveals that the specification that such devices be required in coal mines and, in other underground mines *where necessary* was added following discussion that the provision of self-rescue canister-type breathing apparatus to mine workers should be required where hazards exist, but that it may not be necessary in certain types of mines, such as some metalliferous mines with proper ventilation or in surface mines.<sup>153</sup>

414. A number of countries have reported that self-rescue respiratory devices are required for workers in underground coal mines and other mines.<sup>154</sup> For example, the Government of *Belarus* reported that the regulation on underground mining requires workers to be issued with fully-functioning self-contained self-rescue devices before descending into a mine, with additional devices available underground (at least 5 per cent more than the number of workers listed underground). The Government of *Spain* reported that, under the general regulations concerning basic mine safety, all underground activities involving hazards must be equipped with approved breathing apparatuses that are periodically tested. Self-rescue respiratory devices must be within range of workers at all times, and workers must be instructed in their proper usage.

415. The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that some collective agreements in *Mexico* establish the obligation for employers to provide self-rescue respiratory devices to miners, but that in other mines where these agreements do not apply self-rescue devices are not provided.

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<sup>151</sup> Section 2 of the Mine Improvement and New Emergency Response Act of 2006. See *United States* – CEACR, Convention No. 176, direct request, published in 2010.

<sup>152</sup> Article 5(4)(b) of Convention No. 176.

<sup>153</sup> ILO: *Provisional Record* No. 26, Report of the Committee on Safety and Health in Mines, ILC, 81st Session, Geneva, 1994, para. 55.

<sup>154</sup> For example, *Australia, Belarus, Republic of Korea, Mexico, Republic of Moldova, Spain and United Kingdom.*

416. *The Committee recalls the importance of ensuring that adequate well-maintained self-rescue respiratory devices are provided for workers in underground mines, particularly coal mines. In this respect, it draws the attention of governments to the useful practical guidance on the provision of self-rescue respiratory equipment contained in the ILO code of practice on safety and health in underground coal mines.*<sup>155</sup>

## Temporary and seasonal workers in agriculture

### Box 4.9

#### Temporary and seasonal workers in agriculture

Article 17 of Convention No. 184 provides that:

Measures shall be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to comparable permanent workers in agriculture.

417. The Committee noted in its 2015 General Survey that rural work is characterized by large numbers of temporary and seasonal workers, and it observed that many of these workers are migrant or transient workers, which may exacerbate their vulnerabilities.<sup>156</sup> The preparatory work for Convention No. 184 explained that in many countries, most agricultural wage labour is carried out by day labourers, seasonal labourers and temporary workers who perform the lowest skilled tasks in poor working conditions.<sup>157</sup> It was identified that temporary workers are especially vulnerable, as they are more exposed to occupational hazards than other agricultural workers, and that migrant workers face specific difficulties.<sup>158</sup>

418. The Convention therefore requires measures to be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to permanent workers. In this respect, many countries indicated that the legislation on OSH applies equally to temporary and seasonal workers as to permanent workers.<sup>159</sup> Certain governments, including those of *Australia, Colombia, Philippines, Spain and Turkey*, reported on specific measures taken to address the safety and health protection of temporary and seasonal workers. For example, the Government of *Turkey* reported that the OSH action plan 2014–18 includes the objective of improving and enhancing living and working conditions for seasonal workers in agriculture.

419. Certain governments and social partners reported difficulties in ensuring that temporary and seasonal workers in agriculture enjoy the same OSH protection as permanent workers. The Government of *Ethiopia* reported that, while the labour legislation does not discriminate against seasonal or temporary workers in terms of the protection of safety and health at work, labour inspection reports show that in practice temporary and seasonal workers are not provided with adequate safety and health

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<sup>155</sup> ILO: *Code of practice on safety and health in underground coalmines*, Sectoral Activities Programme, ILO (Geneva, 2006), paragraphs 9.3.2 and 24.5.2.1 to 24.5.2.4.

<sup>156</sup> ILO: *Giving a voice to rural workers, General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), ILC, 104th Session, Geneva, 2015, paras 15, 233 and 234.

<sup>157</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, p. 10.

<sup>158</sup> *ibid.*, p. 3.

<sup>159</sup> *Antigua and Barbuda, Belarus, Belgium, Cambodia, Chile, Cyprus, Denmark, Ethiopia, Germany, Greece, Iceland, Indonesia, Iraq, Kenya, Republic of Korea, Mauritius, Mexico, Republic of Moldova, Norway, Saudi Arabia, Sudan, Suriname, Turkmenistan, Uganda, United Kingdom and Uzbekistan.*

protection in comparison with permanent workers. The Government of *Pakistan* reported that temporary and seasonal agricultural workers do not enjoy the same safety and health protection as that accorded to permanent workers in other sectors.

420. A number of workers' organizations highlighted difficulties relating to OSH protection for temporary and seasonal workers in agriculture. The Canadian Labour Congress (CLC) stated that "temporary" foreign workers in the agricultural sector have few occupational health and safety rights in all provinces in *Canada*, and no access to redress, and that there are no formal government plans to extend existing OSH provisions to these workers. The CLC noted that, although employers of temporary foreign workers in the agricultural sector are required to provide first-aid access, they are not required to ensure medical attention or ongoing care, even if the worker has suffered an injury or illness directly resulting from employment. During the period 2001–11, there were 787 repatriations of migrant farm workers in Ontario, most frequently for medical or surgical reasons (41.3 per cent of those repatriated) and external injuries, including poisoning (25.5 per cent of those repatriated). The Federation of Korean Trade Unions (FKTU) stated that temporary workers and seasonal workers in agriculture in the *Republic of Korea* are entitled to same protection as permanent workers in terms of safety and health, but face discrimination in provision of OSH information, as government guidance and inspection on safety and health is poor and these workers do not receive OSH education. The Australian Council of Trade Unions (ACTU) reported a significant increase in *Australia* in overseas labour on temporary visa arrangements, who are exploited, have little access to state regulatory mechanisms or protection by trade union membership, and are often unaware and uneducated about their legal entitlements, which is of particular importance in the agricultural sector. The Single Confederation of Workers of Colombia (CUT) indicated that no measures have been taken in *Colombia* to ensure that temporary and seasonal workers receive the same safety and health protection as permanent workers, and that, as a result, 90 per cent of workers in agriculture are not covered by the social protection system. The National Confederation of United Independent Unions (CONUSI) stated that there is no specific law covering this category of workers in *Panama* and that in practice workers are exploited and lack basic protection, including the provision of personal protective equipment.

***421. Recalling the specific vulnerability of temporary and seasonal agricultural workers to OSH risks, the Committee calls on governments to take the necessary measures to ensure that such workers receive the same level of safety and health protection as other workers in the agricultural sector, also taking into account language differences.***

Measures that take into account the special needs of women agricultural workers in relation to pregnancy, breastfeeding and reproductive health

**Box 4.10**

**Protective measures for women agricultural workers**

Article 18 of Convention No. 184 provides that:

Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.

422. The majority of the world's women workers are engaged in agricultural activities in rural areas, and constitute approximately 43 per cent of the agricultural labour force in



developing countries.<sup>160</sup> The preparatory work for Convention No. 184 recalled that women account for a considerable proportion of the agricultural workforce in developing countries, and that these workers were among the most vulnerable in agriculture work.<sup>161</sup> Exposure to poor working conditions can have serious repercussions on pregnancy, breastfeeding and reproductive health, and the preparatory work highlighted that the risk of miscarriages, premature deliveries and spontaneous abortions was directly linked to work in unfavourable conditions, such as microclimates in greenhouses and exposure to pesticides.<sup>162</sup>

423. In this regard, the Convention requires the adoption of measures to take into account the special needs of women agricultural workers in relation to pregnancy, breastfeeding and reproductive health. Recommendation No. 192 adds that such measures should include the assessment of any workplace risks related to the safety and health of pregnant or nursing women, and women's reproductive health and that, where appropriate, the national system for OSH surveillance should include health surveillance measures for pregnant and nursing women.<sup>163</sup> Furthermore, the Maternity Protection Convention, 2000 (No. 183), contains specific provisions that protect women from dismissal and discrimination related to pregnancy or childbirth and its consequences or nursing.<sup>164</sup>

424. Several countries reported the taking of specific measures concerning women agricultural workers related to pregnancy, breastfeeding and reproductive health, including the undertaking of risk assessments of hazards that may pose a specific risk and protection against harmful pesticides.<sup>165</sup> For example, the Government of *Spain* reported that the mandatory risk assessments include examining risks for workers who are pregnant or breastfeeding, including any factor that may adversely affect the health of workers or the foetus. If the results of the assessment reveal a risk to the health and safety, or a possible effect on pregnancy or breastfeeding, the employer shall take the necessary measures to avoid exposure to such risks, and where this is not possible, there should be a change of position or function, until such time as the health of the worker allows reinstatement to the previous position.<sup>166</sup> The Government of *Honduras* reported that measures have been taken to protect pregnant and breastfeeding workers from agrochemicals, including the prohibition of work with certain chemicals that are harmful to their health. The Government of *Austria* reported that the Agricultural Employment Act establishes the obligation to conduct a maternity protection evaluation to identify all possible dangers to the life and health of the mother and foetus, with the same obligation applying to breastfeeding mothers the results of which must be recorded in the safety and health protection documents.<sup>167</sup>

***425. Recalling that women agricultural workers may be particularly vulnerable to certain risks, the Committee calls on governments to undertake and strengthen preventive and protective measures pertaining to the reproductive health of women***

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<sup>160</sup> ILO: *Giving a voice to rural workers, General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), ILC, 104th Session, Geneva, 2015, paras 13 and 18.

<sup>161</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, Geneva, 2000, pp. 3–12.

<sup>162</sup> *ibid.*, pp. 12 and 21.

<sup>163</sup> Paragraphs 4(3) and 11 of Recommendation No. 192.

<sup>164</sup> Articles 8 and 9 of Convention No. 183.

<sup>165</sup> For example, *Australia, Austria, Belgium, Cambodia, Croatia, Cyprus, Finland, Germany, Honduras, Iceland, Republic of Korea, Republic of Moldova and Spain*.

<sup>166</sup> Section 16 of Act No. 31/1995 on occupational risk prevention.

<sup>167</sup> Sections 77 and 96a of the Labour Law in Agriculture.

*agricultural workers, in particular from the beginning of pregnancy, as well as for breastfeeding workers. It encourages governments to promote the conduct of assessments of any workplace risks related to the safety and health of pregnant or nursing women, as well as to women's reproductive health, and the adoption of appropriate measures to address the risks identified, and to provide such workers with appropriate health surveillance.*

## Chapter V. Measures taken to ensure compliance with national laws and regulations on occupational safety and health

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### Box 5.1 Mechanisms for ensuring compliance

Article 4(2)(c) of Convention No. 187 provides that:

The national system for occupational safety and health shall include among others:

...

- (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;

...

426. Convention No. 187 identifies mechanisms for ensuring compliance with national laws and regulations, including systems of inspection, as one of the four required elements of a national system on OSH.<sup>1</sup>

427. The preparatory work for the Convention highlighted that ensuring compliance with OSH legislation is a major challenge for all countries and that it requires multiple approaches, including enforcement and self-compliance.<sup>2</sup> The preparatory work emphasized the important role of labour inspection but also highlighted the role to be played by other means in promoting compliance with OSH legislation, including the establishment of OSH management systems.<sup>3</sup> Accordingly, while the Convention reinforces the importance of labour inspection, it also recognizes that other mechanisms can be useful in promoting compliance. This Chapter therefore examines the important role of labour inspection systems, as well as complementary initiatives, in the progressive achievement of a safe and healthy working environment.

### 1. Labour inspection systems

428. Recommendation No. 197 provides that member States should take into account the instruments relevant to the promotional framework for OSH listed in the Annex to that Recommendation, in particular the Occupational Safety and Health Convention, 1981 (No. 155), the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).<sup>4</sup>

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<sup>1</sup> Article 4(2)(c) of Convention No. 187.

<sup>2</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, para. 54.

<sup>3</sup> *ibid.*, para. 55.

<sup>4</sup> Paragraph 2(a) of Recommendation No. 197.

429. In this connection, in its 2009 General Survey, the Committee considered some of the main requirements for an adequate and appropriate labour inspection system, with reference to Conventions Nos 81 and 129 and the 2006 General Survey on labour inspection.<sup>5</sup> In 2009, the Committee recalled that the principal role of labour inspection is to secure the application of the legal provisions concerning the conditions of work and the protection of workers, and it examined the prevention and enforcement powers granted to labour inspectors in respect of OSH matters.<sup>6</sup>

430. In this respect, the Committee notes that a number of governments and social partners underscored the key role of inspection in reducing occupational accidents and injuries. For example, the Confederation of Employers of the Mexican Republic (COPARMEX) indicated that in *Mexico*, regular labour inspections to control compliance with labour law had resulted in the reduction of occupational accidents, as well as a reduction of serious injuries from accidents. With respect to *Canada*, the Canadian Labour Congress (CLC) indicated that, in the province of Ontario, there has been a significant reduction in injuries and fatalities in construction, to the lowest level of any Canadian jurisdiction, due to a dramatic increase in inspections and penalties for non-compliance.

## Human and material resources

431. In its 2006 General Survey on labour inspection and in its 2009 General Survey on occupational safety and health, the Committee particularly emphasized the crucial importance of providing labour inspectorates with the necessary material and human resources to ensure that they can function effectively.<sup>7</sup> Recognizing that adequate funding is a necessary prerequisite in this regard, the Committee has on several occasions requested that governments provide information on the budget allocated to labour inspectorates.<sup>8</sup> The Committee has noted the measures taken by governments to increase the human and material resources provided to labour inspectorates, including increases in the budget allocated to the labour inspectorate,<sup>9</sup> the hiring of additional inspectors,<sup>10</sup> including women inspectors,<sup>11</sup> the hiring of interpreters or labour inspectors with specific language capacities in countries with a large population of migrant workers,<sup>12</sup> and the provision of

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<sup>5</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 96–102. See also ILO: *General Survey on Labour Inspection*, 2006.

<sup>6</sup> ILO: *General Survey on occupational safety and health*, 2009, paras 97 and 99.

<sup>7</sup> *ibid.*, para. 100. ILO: *General Survey on Labour Inspection*, 2006, paras 238–255.

<sup>8</sup> For example, *Honduras* – CEACR, Convention No. 81, observation, published in 2013; *Italy* – CEACR, Convention No. 81, direct request, published in 2016; *Indonesia* – CEACR, Convention No. 81, direct request, published in 2012; *Rwanda* – CEACR, Convention No. 81, observation, published in 2016; *Sierra Leone* – CEACR, Convention No. 81, observation, published in 2016; *Yemen* – CEACR, Convention No. 81, direct request, published in 2013.

<sup>9</sup> For example, *Algeria* – CEACR, Convention No. 81, direct request, published in 2014; *Bangladesh* – CEACR, Convention No. 81, observation, published in 2015; *Niger* – CEACR, Convention No. 81, observation, published in 2016.

<sup>10</sup> For example, *Bangladesh* – CEACR, Convention No. 81, observation, published in 2016; *Colombia* – CEACR, Convention No. 81, observation, published in 2016; *Qatar* – CEACR, Convention No. 81, observation, published in 2017; *Turkey* – CEACR, Convention No. 81, observation, published in 2015.

<sup>11</sup> For example, *Fiji* – CEACR, Conventions Nos 81 and 129, direct request, published in 2017; *Madagascar* – CEACR, Convention No. 81, direct request, published in 2015.

<sup>12</sup> For example, *Qatar* – CEACR, Convention No. 81, observation, published in 2017; *United States* – CEACR, Convention No. 182, observation, published in 2017. See also section 105 of Chapter 4, Division of Labour Standards Enforcement, California Labour Code – United States.

further material resources, such as additional vehicles and tablets with internet access.<sup>13</sup> It has also noted the measures taken to improve the status and conditions of service of labour inspectors, including measures to ensure the levels of remuneration and career prospects necessary to attract high-quality staff.<sup>14</sup>

432. However, the information submitted by certain governments, employers' and workers' organizations shows that the availability of resources continues to be a persistent problem in countries from all regions, including in the construction, mining and agricultural sectors. For example, the Government of *Iceland* reported that the number of labour inspectors has been reduced in recent years, resulting in insufficient human resources, particularly in geographically large inspection regions. The Government of *Turkey* reported that inspection officials are overwhelmed by their workload.

433. Many workers' organizations and one employers' organization also reported problems in their respective countries: *Argentina, Brazil, Colombia, Gabon, Japan, Panama, Portugal, New Zealand, Spain, Sudan, Sweden, and United States* due to an insufficient number of inspectors and labour inspection visits, inadequate training and a lack of material resources.<sup>15</sup>

434. Moreover, a number of trade unions from European countries also indicated that the financial, human and material resources of the labour inspectorate have been reduced as a result of the austerity measures adopted since 2008 in the context of the financial and economic crisis. These include the General Confederation of Portuguese Workers (CGTP) and the Union of Swiss Trade Unions (USS).

435. The Committee has consistently noted the attribution of additional functions to labour inspectors, such as logistical and administrative tasks, the control of the enforcement of immigration law and the mediation of labour disputes.<sup>16</sup> It notes in this respect the allegations by the Single Confederation of Workers of Colombia (CUT) that multiple other tasks are assigned to labour inspectors in *Colombia*, which has a negative effect on labour inspection in the area of OSH. Moreover, the Gabonese Confederation of Free Trade Unions (CGSL) reported that labour inspectors in *Gabon* spend most of their time conciliating labour conflicts.

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<sup>13</sup> For example, *Ecuador* – CEACR, Convention No. 81, direct request, published in 2016; *Greece* – CEACR, Convention No. 81, observation, published in 2016; *Qatar* – CEACR, Convention No. 81, observation, published in 2016; *Uruguay* – CEACR, Convention No. 81, observation, published in 2014.

<sup>14</sup> For example, *Madagascar* – CEACR, Convention No. 81, observation, published in 2016.

<sup>15</sup> These include: the Confederation of Labour of the Argentine Republic (CGT RA), the Argentine Building Workers Union (UOCRA), the General Union of Workers of Brazil (UGT), the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT), the Gabonese Confederation of Free Trade Unions (CGSL), the Japanese Trade Union Confederation (JTUC-RENGO), the National Confederation of United Independent Unions (CONUSI) of *Panama*, the Confederation of Portuguese Workers (CGTP), the New Zealand Council of Trade Unions (NZCTU), the General Union of Workers of Spain (UGT), the Sudanese Businessmen and Employers Federation (SBEF), the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO), the Swedish Confederation of Professional Associations (SAC) and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

<sup>16</sup> For example: *China – Hong Kong Special Administrative Region* – CEACR, Convention No. 81, direct request, published in 2016; *Dominican Republic* – CEACR, Convention No. 81, observation, published in 2014; *Greece* – CEACR, Convention No. 81, observation, published in 2016; and *Kenya* – CEACR, direct requests, Convention No. 81 published in 2013 and 2015. See also ILO: *Report of the Committee set up to examine the representation alleging non-observance by Portugal of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the Union of Labour Inspectors (SIT)*, Governing Body, 324th Session, Geneva, June 2015, GB.324/INS/7/5, para. 95.

436. *The Committee considers that it is essential for member States to allocate the necessary human and material resources to labour inspection, by recruiting an adequate number of inspectors, including women inspectors, and allocating appropriate budgetary provision, so that labour inspectors can carry out their duties effectively. It recalls that it has consistently emphasized that further duties entrusted to labour inspectors must not interfere with the discharge of their primary duties, including their core duties relating to OSH.*<sup>17</sup> *It further recalls that ILO technical assistance is available for the development of strategic approaches to the planning of labour inspection with a view to maximizing the use of resources so as to achieve the greatest possible impact.*

## Satisfactory coverage of workplaces liable to labour inspection

### Availability of statistics for the planning of labour inspection activities

437. The Committee recalls that workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of legal provisions concerning OSH.<sup>18</sup> An important aspect in this regard is the availability of statistical data to enable the labour inspection services to focus interventions on priorities defined on the basis of objective criteria, such as on occupational risk levels and categories of workers at the workplace (such as young persons and migrant workers), as well as information on whether or not there is a trade union present.<sup>19</sup>

438. As highlighted in Chapter II, the availability of information on the number and location of workplaces poses a challenge in the construction, mining and agricultural sectors. The Committee has on numerous occasions indicated that the absence of basic information (such as the number of workplaces liable to inspection and the workers employed therein, as well as the number of labour inspections carried out) represents an insurmountable obstacle for any assessment of the rate of coverage of workplaces by labour inspection, and has often resulted in the allocation of insufficient budgetary resources for effective labour inspection.<sup>20</sup> In this respect, the Committee has emphasized that the statistical information required in annual labour inspection reports under Conventions Nos 81 and 129 offers an indispensable basis for evaluating labour inspection services, and subsequently, determining the means necessary to improve their effectiveness.<sup>21</sup>

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<sup>17</sup> ILO: *General Survey on Labour Inspection*, 2006, paras 64–84.

<sup>18</sup> Article 16 of Convention No. 81 and Article 21 of Convention No. 129.

<sup>19</sup> ILO: *General Survey on labour inspection*, 2006, para. 259. In this connection, see also Chapter III of this General Survey.

<sup>20</sup> See CEACR, general observation on the importance of maintaining and keeping up to date registers of workplaces liable to inspection and workers employed therein, Conventions Nos 81 and 129, published in 2010. See also *Albania* – CEACR, Convention No. 81, direct request, published in 2014; *India* – CEACR, Convention No. 81, observation, published in 2016; and *Panama* – CEACR, Convention No. 81, direct request, published in 2015.

<sup>21</sup> See CEACR, general observation on the importance of well-prepared annual inspection reports, Convention No. 81, published in 2011. In this regard, the Committee also referred to the extremely valuable guidance on the presentation and analysis of information in annual reports on labour inspection provided in the Labour Inspection Recommendations Nos 81 and 133.

439. *The Committee considers that detailed statistical information is essential in order to improve the impact on the effectiveness of labour inspection activities. In this respect, the Committee emphasizes the importance of establishing and regularly updating a register of workplaces liable to inspection, containing data on the number and categories of workers employed therein. It further highlights the importance of collecting the statistical information needed to devise an effective labour inspection strategy in the area of occupational safety and health, such as data on occupational risks, work accidents and occupational diseases, the frequency of violations of OSH legislation and the presence of particularly vulnerable workers.*

#### Inspections focusing on the most hazardous sectors and workplaces

440. A number of countries have established systems to determine high-risk sectors and workplaces and focus labour inspection activities accordingly. For example, the Government of *Iceland* reported that the frequency of inspection visits is determined as follows: the frequency in workplaces with more than 30 employees depends on the level of organization, administration and compliance with the legislation; and the frequency of workplaces with fewer than 30 employees depends on the risk level in the respective sector. The Committee has noted, for example, that in *Canada*<sup>22</sup> and the *Republic of Korea*<sup>23</sup> the labour inspection authorities plan inspections based on risk analyses. In the *Netherlands*, the work of the labour inspection system is based on an ongoing risk analysis that takes into account many sources (including data on occupational accidents and compliance) to determine sectors and workplaces with relatively higher OSH risks, which are given priority.<sup>24</sup> In the case of the *United Kingdom*, the Committee noted the decision by the Government, which it reports as being with a view to easing the bureaucratic burden on businesses and making inspections more effective, to: (a) target inspections on higher-risk sectors; (b) reduce inspections in areas of concern, but where inspections are deemed by the Government to be unlikely to be effective (such as agriculture, quarries, health and social care); and (c) discontinue inspections in low-risk sectors. The identification of non-major hazard industries was made on the basis of a new targeting and information system and it was planned to reduce the number of inspections in these industries, from 2010–11 onwards, by one third every year. In the case of underperformance in the area of OSH, workplaces would continue to be subject to inspection.<sup>25</sup> In this respect, the Committee also noted the concerns expressed by workers' organizations in the *Netherlands* and *United Kingdom* that such systems result in the absence of inspections in certain enterprises, such as small enterprises or those misclassified as being at low risk and, with respect to the *Netherlands*, that there had been a reduction in the number of labour inspections by almost half between 2005 and 2013.<sup>26</sup>

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<sup>22</sup> *Canada* – CEACR, Convention No. 187, direct request, published in 2014. In this regard, the Committee also noted the observations made by the Canadian Labour Congress (CLC) that improvements were called for in the mechanisms for ensuring compliance.

<sup>23</sup> *Republic of Korea* – CEACR, Convention No. 187, observation, published in 2015. The Committee also noted the observations made by the Federation of Korean Trade Unions (FKTU) that, in view of the significant number of workplaces found in violation of OSH legislation, it was essential to increase the number of labour inspectors.

<sup>24</sup> *Netherlands* – CEACR, Convention No. 81, observation, published in 2016.

<sup>25</sup> *United Kingdom* – CEACR, Convention No. 81, observation, published in 2014.

<sup>26</sup> See the observations made by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP) in *Netherlands* – CEACR, Convention No. 81, observation, published in 2016; and the observations made by the Trades Union Congress (TUC) in *United Kingdom* – CEACR, Convention No. 81, observation, published in 2014.

**441. *The Committee considers that the planning of labour inspection activities based on the level of occupational hazards may be an appropriate means of achieving improved coverage of workplaces by labour inspection. However, care must be taken to ensure that certain, often vulnerable, categories of workers (such as workers in small and micro-enterprises and workers in agricultural areas) are not excluded from protection due to the fact that they are employed in workplaces or sectors that are not identified as being at high risk, or in sectors where labour inspection is considered too resource-intensive. The Committee stresses that all workplaces should remain liable to inspection and that focusing inspections on the most hazardous workplaces must not diminish the overall resource commitment of the labour inspectorate.***

#### Limitations and restrictions on labour inspection

442. The Committee notes with concern the impediments to labour inspection in some countries. For example, the Georgian Trade Unions Confederation (GTUC) observed that in *Georgia* the Government had delayed the re-establishment of the public labour inspection system, which had been abolished in 2006. According to the joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI), legislative reforms in *Ukraine* have had a severe impact on the system of inspections in the area of OSH, including through the significant reduction in the allocation of funds, the scope of inspections and the powers of labour inspectors. The Committee also noted the introduction of several restrictions on the free access of labour inspectors to undertake inspections in the *Republic of Moldova*, including the requirement to provide prior notice to the entity subject to control, limitations on the frequency of inspections and on unannounced inspections, and the requirement to exhaust other means of verifying compliance before an inspection is permitted.<sup>27</sup> The National Trade Union Confederation (CNSM) reported that this remains a problem and that the Government has taken further measures to dismantle the national labour inspectorate.

443. In addition, the General Union of Workers (UGT) indicated that employers in *Brazil* obstruct labour inspectors in their work, and the Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS) reported that many companies and employers in the *Dominican Republic* impede the access of labour inspectors to workplaces.<sup>28</sup> The Georgian Trade Unions Confederation (GTUC) observed that labour monitors in *Georgia* do not have the right to enter workplaces without the consent of employers.

**444. *Recalling the important role of labour inspection in ensuring compliance, the Committee emphasizes that labour inspections must be undertaken as often as is necessary to ensure the effective application of provisions concerning OSH. It calls on member States to eliminate any restrictions that may stand in the way of the effective monitoring of OSH conditions, such as limitations on the frequency of inspections and access to workplaces by inspectors.***

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<sup>27</sup> *Republic of Moldova* – CEACR, observation, published in 2016; and ILO: *Report of the Committee set up to examine the representation alleging non-observance by the Republic of Moldova of the Labour Inspection Convention, 1947 (No. 81), submitted under article 24 of the ILO Constitution by the National Confederation of Trade Unions of Moldova (CNSM)*, Governing Body, 323rd Session, March 2015, GB.323/INS/11/6.

<sup>28</sup> In this regard, the Committee recalls that Article 18 of Convention No. 81 provides that adequate penalties for obstructing labour inspectors in the performance of their duties shall be provided for in the law and effectively enforced.



## Labour inspection in construction

### Box 5.2

#### Labour inspection in the construction sector

Article 35(b) of Convention No. 167 provides that:

Each Member shall:

...

- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their task, or satisfy itself that appropriate inspection is carried out.

### Organization of the labour inspection services in construction

445. The Committee notes the indication by many governments that OSH inspection services are responsible for all economic sectors, including construction.<sup>29</sup> In addition, in light of the high proportion of accidents in construction, many member States have prioritized OSH inspections in this sector, as reported, for example, by *Finland, the former Yugoslav Republic of Macedonia and Iceland*, and the Canadian Labour Congress (CLC) in *Canada*.

### Obstacles to the implementation of Article 35(b) of Convention No. 167 in practice

446. Article 35(b) of Convention No. 167 underlines the importance of the provision of the necessary resources to the inspection services. The preparatory work for Convention No. 167 reflected the difficulties identified by constituents with regard to the insufficient human and material resources of inspection services, particularly in light of the transitory nature of construction worksites. Enforcement had been considered the most important practical problem in the application of the earlier sectoral Convention<sup>30</sup> since, unlike permanent industrial undertakings, the safety measures required in construction are generally of a relatively short duration. As work progresses, the nature of the operation changes and the readjustment and re-erection of scaffolds and hoisting appliances is frequently necessary. For these reasons, the enforcement of the provisions of the Convention and of the corresponding national legislation requires a large number of inspectors, which is beyond the capacity of most competent authorities.<sup>31</sup>

447. In this respect, the Committee notes the indication by the National Confederation of United Independent Unions (CONUSI) that the responsible labour inspection officials in *Panama* are often based in offices located in areas that are geographically remote from construction projects. The Committee also noted the observations of the Union of Workers in the Lumber, Civil Construction and Furniture Industries of Altamira and the Surrounding Region (SINTICMA), according to which the labour inspectorate in *Brazil* only conducts visits to temporary civil construction sites in the trans-Amazonian region every two or three years.<sup>32</sup>

<sup>29</sup> For example, *Algeria, Belgium, Cambodia, Ireland, Republic of Korea, Malta, Namibia, Netherlands, Spain, Thailand and United Kingdom*.

<sup>30</sup> The Safety Provisions (Building) Convention, 1937 (No. 62).

<sup>31</sup> ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, 1987, p. 30.

<sup>32</sup> *Brazil* – CEACR, Convention No. 167, observation, published in 2012.

448. Concerning the importance of applying the legislation in force, the Federation of the German Construction Industry (HDB) and the German Construction Federation (ZDB) emphasized that, while further regulation is not needed in the construction sector in *Germany*, it is crucial for the legislation to be sufficiently controlled and enforced.

449. In light of the number of migrant workers engaged in the sector,<sup>33</sup> the Committee has noted that several constituents have underlined the challenges that the presence of unregistered and migrant workers in construction can raise with respect to safety and health inspections, including in *Brazil*, *Dominican Republic*, *Norway*, *Qatar* and *Serbia*.<sup>34</sup> With respect to *Qatar*, the Committee noted that in 2013 almost 40 per cent of the large migrant worker population was engaged in the construction sector, and that there had been a high number of fatal accidents on construction sites, and it subsequently called for measures to be taken to improve the capacity of labour inspectors to monitor occupational safety and health, particularly in the construction sector.<sup>35</sup>

450. The Committee notes that, in some countries, labour inspection activities to address informal employment in construction are aimed at the formalization and protection of workers. For example, in *Brazil*, the activities of the labour inspectorate to tackle undeclared work have resulted in the registration of a large number of construction workers.<sup>36</sup> In other countries, such as *Finland*, the Government reported that inspections to combat undeclared work in the construction sector are also targeted at monitoring the work permits of foreign workers, including during joint inspections with the police and immigration authorities. With regard to this practice, the Committee noted the concerns expressed by the Central Organisation of Finnish Trade Unions (SAK) that occupational accidents in the construction sector are no longer necessarily registered. SAK indicated that this might be the result of the priority assigned by the labour inspectorate to other activities, such as those related to undeclared work, as well as the outsourcing and subcontracting of construction work.<sup>37</sup>

**451. *The Committee expresses the hope that measures will be taken to effectively monitor the safety and health of all workers engaged in construction, including undeclared and migrant workers. This could include steps to ensure that labour inspectors are able to communicate with workers, including opportunities to speak with workers directly and as appropriate through the hiring of interpreters.***

**452. *The Committee recalls that the primary duty of labour inspectors is to secure the enforcement of legal provisions relating to conditions of work and the protection of workers and not to enforce immigration law. In so far as the function of verifying the legality of employment is carried out, it should have as its corollary the reinstatement of the statutory rights of all the workers concerned if it is to be compatible with the objective***

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<sup>33</sup> See, ILO: *Promoting fair migration*, Report III (Part 1B), ILC, 105th Session, Geneva, 2016, para.15.

<sup>34</sup> *Brazil* – CEACR, Convention No. 167, observation, published in 2012; *Dominican Republic* – CEACR, Convention No. 167, observation, published in 2012, and direct request, published in 2014; *Norway* – CEACR, Convention No. 167, observation, published in 2015; and *Serbia* – CEACR, Convention No. 167, direct request, published in 2016.

<sup>35</sup> *Qatar* – CEACR, Convention No. 81, observations, published in 2015 and 2016.

<sup>36</sup> *Brazil* – CEACR, Convention No. 167, observation, published in 2012. See also *Colombia* – CEACR, Convention No. 81, observation, published in 2016; and *Serbia* – CEACR, Convention No. 81, observation, published in 2014.

<sup>37</sup> *Finland* – CEACR, Convention No. 167, observation, published in 2011. See also *Greece* – CEACR, Convention No. 81, observation, published in 2014; and *Italy* – CEACR, Convention No. 81, observation, published in 2016.

*of labour inspection.* <sup>38</sup> *This objective can only be met if the workers covered are convinced that the primary task of the inspectorate is to enforce the legal provisions relating to conditions of work and the protection of workers. Workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country.*

## Designation of a competent authority and labour inspection in mining

### **Box 5.3** **Labour inspection in mining**

Article 5(1) and (2) of Convention No. 176 provides that:

1. National laws and regulations ... shall designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines.
2. Such national laws and regulations shall provide for:
  - (a) the supervision of safety and health in mines;
  - (b) the inspection of mines by inspectors designated for the purpose by the competent authority;
  - ...
  - (e) the power of the competent authority to suspend or restrict mining activities on safety and health grounds, until the condition giving rise to the suspension or restriction has been corrected;
  - ...

## The competent authority and the organization of inspection services in mining

453. The Convention underlines the importance of designating a competent authority with a view to monitoring and regulating the various aspects of safety and health in mining. <sup>39</sup> One of the key responsibilities of the competent authority is to ensure inspections of mines, and to designate inspectors for this purpose. <sup>40</sup> For example, in *Finland*, the Finnish Safety and Chemicals Agency (TUKES) is the authority responsible for mining safety and mining authority activities and enforcing compliance. In *Morocco*, the Department of Mines and Hydrocarbons is responsible for ensuring inspection in mines and monitoring the health and safety of workers in the mining sector.

454. While some countries reported that labour inspection in mining lies within the competence of the general labour inspectorate, <sup>41</sup> in others, OSH in mining is monitored by dedicated mining authorities responsible for occupational safety and health including in *Canada*, *Namibia*, the *Netherlands* and *Poland*. The Government of *Hungary* reported that the control of all aspects relating to occupational health is undertaken by the OSH Authority, while the control of all aspects relating to occupational safety is carried out by the Mining Inspectorate.

<sup>38</sup> See ILO: *General Survey on labour inspection*, 2006, para. 78.

<sup>39</sup> Article 5(1) of Convention No. 176.

<sup>40</sup> Article 5(2) of Convention No. 176.

<sup>41</sup> The Governments of *Cyprus*, *Egypt*, *Montenegro*, *Russian Federation*, *United Kingdom* and *Viet Nam* reported that their labour inspectorates also cover the supervision of OSH in the mining sector.

455. The Committee has noted that in certain countries where no single competent authority has been designated, coordination efforts have been undertaken to ensure coherence in the activities of the various authorities responsible for safety and health and other technical inspections in the mining sector. For example in *Colombia*, *Poland* and *Portugal*, the Committee has noted the conclusion of inter-institutional agreements to coordinate inspection activities in the mining sector with a view to increasing the effectiveness of inspection and the exchange of information, particularly on matters relating to occupational accidents.<sup>42</sup> On the other hand, the Committee noted the allegation by the National Union of Workers of the Federal Roads and Bridges Access and Related Services (SNTCPF) concerning the insufficiency and inefficiency of coordination in *Mexico* between the state secretariats involved in joint labour inspections.<sup>43</sup> The Committee notes, however, that some countries require that inspections in mines are undertaken at regular intervals, for example in the *United States* where labour inspections is to be undertaken in each underground mine in its entirety at least four times a year, and in each surface mine in its entirety at least two times a year.<sup>44</sup>

***456. The Committee emphasizes the importance of ensuring that, in cases where there is no single competent authority designated to monitor and regulate the various aspects of safety and health in mining, coordination is ensured between the various authorities responsible for occupational safety and health inspection in mines in order to achieve effective monitoring in the different areas entrusted to the various agencies.***

#### Obstacles to the application in practice of Article 5(2) of Convention No. 176

457. Article 16(b) of Convention No. 176 calls on member States to provide the inspection services responsible for controlling the application of the measures taken in the mining sector with the resources necessary for the accomplishment of their tasks. The preparatory work for the Convention referred to several practical obstacles to inspections in mines, such as resource constraints, the insufficient number of inspections and the lack of specific technical knowledge and expertise.<sup>45</sup> In this regard, the Committee notes the reference by the Confederation of Workers of Colombia (CTC) to the lack of inspection visits in the mining sector in *Colombia*, and the indication by the Single Confederation of Workers of Colombia (CUT) that inspectors lack specific training in OSH in mining. Moreover, the Confederation of Portuguese Workers (CGTP) reported that labour inspections in *Portugal* have been reduced in the mining sector in particular as a result of the economic crisis. The Committee also noted that the National Union of Federal Roads and Bridges Access and Related Services (SNTCPF) alleged the insufficiency of labour inspections in mines in *Mexico* and the lack of transport facilities available to reach remote mines.<sup>46</sup>

458. The Committee notes that the remoteness of many mines, the existence of a sometimes large informal subsector and the wide use of subcontracting also present sector-specific challenges. For example, with respect to mining in *Colombia*, the National Employers Association of Colombia (ANDI) stressed that robust action should be taken

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<sup>42</sup> *Colombia* – CEACR, Convention No. 81, direct request, published in 2013; *Poland* – CEACR, Convention No. 176, direct request, published in 2015; and *Portugal* – CEACR, Convention No. 176, direct request, published in 2016.

<sup>43</sup> *Mexico* – CEACR, Convention No. 81, observation, published in 2013.

<sup>44</sup> Section 103(a) of the Federal Mine Safety & Health Act of 1977, Public Law 91-173, as amended by Public Law 95-164.

<sup>45</sup> ILO: *Safety and health in mines*, Report V(1), ILC, 81st Session, 1994, Geneva, p. 20.

<sup>46</sup> *Mexico* – CEACR, Convention No. 155, observation, published in 2016.

against illegal extraction activities in violation of the applicable legislation, including legislation on labour rights. The Committee further recalls that the ILO Tripartite Meeting on Social and Labour Issues in Small-Scale Mines examined the challenges of monitoring small-scale mining operations, which often fell to inadequately funded and poorly staffed mine inspectorates lacking the necessary vehicles or fuel to visit small-scale mining sites.<sup>47</sup> The Committee has also identified the existence of a sometimes large informal subsector and the widespread use of subcontracting as further obstacles to the monitoring of working conditions in the sector. For example, the Committee noted in this respect that the Autonomous Workers' Confederation of Peru (CATP) indicated that the majority of fatal and serious accidents in *Peru* are recorded among workers engaged under subcontracting arrangements, where no effective monitoring mechanisms are in place.<sup>48</sup>

***459. The Committee emphasizes the importance of providing OSH inspectorates responsible for inspections in mines with the necessary human resources and material means, including transport facilities and adequate equipment, to achieve the protection of workers in all workplaces, including remote mines. Inspectors should have the necessary specific technical expertise (such as engineering skills) and be regularly trained to undertake their inspection functions successfully in this sector, particularly in view of the subcontracting arrangements which may further complicate their work.***

## Labour inspection in agriculture

### **Box 5.4** **Labour inspection in agriculture**

Article 5 of Convention No. 184 provides that:

1. Members shall ensure that an adequate and appropriate system of inspection for agricultural workplaces is in place and is provided with adequate means.

2. In accordance with national legislation, the competent authority may entrust certain inspection functions at the regional or local level, on an auxiliary basis, to appropriate government services, public institutions, or private institutions under government control, or may associate these services or institutions with the exercise of such functions.

## Organization of the labour inspection services in agriculture

460. Convention No. 184, in its preamble, refers to the principles embodied in Convention No. 129 and its accompanying Recommendation. Moreover, Recommendation No. 192 provides that, in order to give effect to Article 5 of Convention No. 184, measures concerning labour inspection in agriculture should be taken in the light of the principles embodied in the labour inspection (agriculture) instruments.<sup>49</sup> The Committee recalls in this respect that Article 5(2) of Convention No. 184 and Article 7(3) of Convention No. 129 offer flexibility in the organization of the labour inspection services in agriculture.

<sup>47</sup> ILO: *Report for discussion at the Tripartite Meeting on Social and Labour Issues in Small-scale Mines* (Geneva, 1999), pp. 58 and 59.

<sup>48</sup> *Peru* – CEACR, Convention No. 176, direct request, published in 2015.

<sup>49</sup> Most countries that have ratified Convention No. 184 have also ratified Convention No. 129. Of the 16 countries that have ratified Convention No. 184, only *Ghana*, *Kyrgyzstan* and *Sao Tome and Principe* have not ratified Convention No. 129.

461. The Committee notes that many countries reported that they have labour inspection services that are responsible for ensuring compliance with labour legislation in a wide range of sectors, including agriculture.<sup>50</sup> In other countries, separate labour inspection services for the agricultural sector have been established. In *Austria*, the agriculture and forestry labour inspectorate is an autonomous unit in the cantonal authorities. In *Mauritius*, the Occupational Safety and Health Inspectorate has a unit responsible for enforcing OSH legislation in agriculture, and in *South Africa*, OSH representatives of the Department of Agriculture carry out regular inspections in agricultural enterprises. The Committee has noted that in some countries there are inspectors specializing in agriculture in the general labour inspection services.<sup>51</sup>

#### Obstacles in practice to the implementation of Article 5 of Convention No. 184

462. The Committee has noted specific obstacles to the functioning of an effective labour inspection system in agriculture, such as the inadequacy of labour inspection and inspection policy in relation to the high incidence of workplace accidents, the small number of labour inspection visits, and delays in the timely reporting of accidents.<sup>52</sup> In this respect, the Australian Council of Trade Unions (ACTU) also reported that there is a low level of compliance among employers in agriculture in *Australia*, and that means such as subcontracting are used to circumvent the related obligations.

463. Article 5(1) of Convention No. 184 stresses the importance of ensuring that the system of inspection is provided with adequate means. In the preparatory work for the Convention, concerns were expressed about the availability of resources for the implementation of safety and health laws in agriculture, as the labour inspection services in many countries focus on urban areas and industrial hazards.<sup>53</sup> In this respect, the Committee has also often noted difficulties in member States relating to the inadequacy of resources, including the absence or low number of labour inspectors responsible for agricultural workplaces and the absence of transport facilities to reach workplaces in remote areas.<sup>54</sup>

***464. Taking note of the obstacles identified in the agriculture sector, the Committee highlights the importance of ensuring that the system of inspection is provided with adequate budgetary resources, human and material means, and recalls that the availability of transport facilities is crucial for inspectors to carry out their duties in agriculture.<sup>55</sup> Recalling the high incidence of vulnerable workers in this sector,***

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<sup>50</sup> For example in *Algeria, Belgium, Cambodia, Ireland, Republic of Korea, Malta, Namibia, Netherlands, Russian Federation, Spain, Thailand and United Kingdom*.

<sup>51</sup> For example, *Finland* – CEACR, Convention No. 129, observation, published in 2005; *Uruguay* – CEACR, Convention No. 129, observation, published in 2007.

<sup>52</sup> See for example the observations made by the Confederation of the Workers of Argentina (CTA) in *Argentina* – CEACR, Convention No. 129, observation, published in 2013. See also *Guyana* – CEACR, Convention No. 129, observation, published in 2015; *Republic of Moldova* – CEACR, Convention No. 184, direct request, published in 2016; and the observations made by the Inter-Union Assembly of Workers – National Convention of Workers (PIT-CNT) in *Uruguay* – CEACR, Convention No. 184, direct request, published in 2015.

<sup>53</sup> ILO: *Safety and Health in Agriculture*, Report VI(1), ILC, 88th Session, 2000, Geneva, Chapter III.

<sup>54</sup> For example, *Albania* – CEACR, Convention No. 129, direct request, published in 2014; *Plurinational State of Bolivia* – CEACR, Convention No. 129, observation, published in 2016; *Côte d'Ivoire* – CEACR, Convention No. 129, observation, published in 2014, which also refers to the observations of the General Confederation of Enterprises of Côte d'Ivoire (CGECI); *Kenya* – CEACR, Convention No. 129, direct request, published in 2013; and *Zimbabwe* – CEACR, Convention No. 129, observation, published in 2014.

<sup>55</sup> ILO: *General Survey on labour inspection*, 2006, para. 255.

*including migrant workers, women and children, the Committee emphasizes that labour inspectors should have the necessary skills and capacities to address their specific situation, including opportunities to speak with them directly, for example through the hiring of interpreters.*

465. During the preparatory work for Convention No. 184, concerns were also raised regarding the lack of technical knowledge in the agricultural sector.<sup>56</sup> As noted above, many labour inspectorates cover several sectors and do not have inspectors specializing in agriculture and OSH. The Committee therefore considers that training on specific agricultural issues, or the association of technical experts, is indispensable for effective control of compliance with the relevant legal provisions. While the Committee has noted the information provided by some governments on the specialized training provided in some countries, and the association of technical experts in agriculture where necessary,<sup>57</sup> in many cases it has not received the information requested in this regard.<sup>58</sup>

*466. The Committee emphasizes the importance of ensuring that labour inspectors working in the agricultural sector receive appropriate initial and further training in the course of their employment, which takes into account developments in technology and working methods, as well as the risks associated with the use of machinery and tools, and the handling of products, chemical substances and pesticides to which workers and their families are exposed.*

## Corrective measures, appropriate penalties and their application

### **Box 5.5** **Provision of appropriate penalties and corrective measures**

#### **Construction**

Article 35 of Convention No. 167 provides that:

Each Member shall:

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention;

...

#### **Mining**

Article 5(2) of Convention No. 176 provides that:

- 2. ... national laws and regulations shall provide for:

...

- (e) the power of the competent authority to suspend or restrict mining activities on safety and health grounds, until the condition giving rise to the suspension or restriction has been corrected;

...

Article 16 of Convention No. 176 provides that:

The Member shall:

<sup>56</sup> ILO: *Safety and health in agriculture*, Report VI(1), ILC, 88th Session, 2000, Chapter III.

<sup>57</sup> For example, *Estonia* – CEACR, Convention No. 129, direct request, published in 2013; and *Iceland*, Convention No. 129, direct request, published in 2015.

<sup>58</sup> For example, *Azerbaijan* – CEACR, Convention No. 129, direct request, published in 2014; *Bosnia and Herzegovina* – CEACR, Convention No. 129, direct request, published in 2014; *Hungary* – CEACR, Convention No. 129, direct request, published in 2016; and *Kazakhstan* – CEACR, Convention No. 129, direct request, published in 2016.

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention;

...

#### **Agriculture**

Article 4(3) of Convention No. 184 provides that:

The designated competent authority shall provide for corrective measures and appropriate penalties in accordance with national laws and regulations, including, where appropriate, the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of workers, until the conditions giving rise to the suspension or restriction have been corrected.

### **Provision and application of corrective measures**

467. In addition to the application of penalties, the sectoral Conventions also provide for the provision and application of corrective measures. These include the measures taken by the enforcement authority to correct or remedy infringements.<sup>59</sup> With respect to mining, Convention No. 176 provides that the competent authority must be empowered to suspend or restrict mining activities on safety and health grounds. In relation to agriculture, Convention No. 184 provides that corrective measures include the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of workers until the conditions are corrected.

468. The Committee has noted that the national legislation in almost all countries accords powers to labour inspectors aimed at eliminating or at least reducing occupational risks affecting safety and health in workplaces liable to inspection, including the power to issue notices ordering alterations to installations, plant or premises, tools, equipment and machines. These can be required immediately or within a specified time limit, as determined by the labour inspector in light of individual circumstances and the complexity of the measures proposed, such as the existence of an imminent danger to the health or safety of workers. Powers in relation to the suspension of operations or the closure of an establishment often depend on the seriousness of the hazard.<sup>60</sup>

469. While many countries provide for the application of corrective measures,<sup>61</sup> certain workers' and employers' organizations highlighted difficulties in their implementation in practice. For example, the National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) indicated that, despite the new measures adopted to strengthen the powers of labour inspectors in *Mexico*, including the power to order the total or partial suspension of the activities of the mine in the event of imminent danger, these are not properly applied in practice. The Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that in *Ukraine*, in the reform of the labour inspection system, the powers of inspectors to shut down individual workplaces with the most severe violations of occupational safety laws and regulations have been curtailed, thereby jeopardizing the lives of workers. The Sudanese Businessmen and Employers Federation (SBEF) observed that there are issues with regard to the powers of inspection, including the authority to halt operations and the adoption of integrated corrective action in

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<sup>59</sup> See ILO: *Safety and Health in construction*, Report IV(1), ILC, 75th Session, 1988, p. 65.

<sup>60</sup> ILO: *General Survey on labour inspection*, 2006, paras 105–131.

<sup>61</sup> For example, *Denmark* (Section 77(1) of the Working Environment Act), *Hungary* (Section 84 of the OSH Act No. 1993), *Iceland* (Section 85 of Act No. 46/1980 on the working environment, health and safety in workplaces), *Latvia* (Section 5(2) of the State Labour Inspection Law), *Morocco* (Section 542 and 543 of the Labour Code), *Poland* (Section 11 of State Labour Inspectorate Act), and *Sri Lanka* (Section 44 of the Factories Ordinance).



coordination with other authorities in *Sudan*. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that, although the occupational safety and health authority in the *United States* is authorized to order the abatement of hazards, employers are not required to take measures while orders are being contested or appealed, which can take years, during which workers continue to be exposed to hazards. The Committee has also noted that in certain countries labour inspectors must provide advice, a warning or a reprimand prior to ordering any measures to eliminate a hazard, which may prevent the protection of workers in cases of an imminent threat to their safety and health.<sup>62</sup>

**470. *With reference to its considerations concerning limitations and restrictions on labour inspection, the Committee calls on governments to ensure that labour inspectors are given adequate access to workplaces to deal with OSH issues and protect workers from occupational hazards. The Committee recalls the importance that it attaches to the effective exercise by labour inspectors of the authority to prescribe measures with immediate executory force in order to eliminate imminent dangers to the safety and health of workers.***<sup>63</sup>

### Importance of providing for appropriate penalties

471. Each of the sectoral Conventions requires the establishment of appropriate penalties for their enforcement. In this respect, the Committee has repeatedly emphasized that it is essential for the credibility and effectiveness of regulatory systems that penalties are sufficiently dissuasive and that they are defined in the national legislation in proportion to the nature and gravity of the offence. In this context, it has noted that the legislation of most countries provides for penalties in cases of the violation of the legal provisions enforceable by labour inspectors, including both fines and terms of imprisonment.<sup>64</sup>

### Sufficiently dissuasive penalties

472. To ensure that penalties have the necessary deterrent effect consideration is often given to the level of intent of perpetrators (simple carelessness, negligence, wilfulness, recklessness, etc.)<sup>65</sup> and their status as a natural or legal person.<sup>66</sup> Other considerations for the prescription of adequate penalties include ensuring that the amounts of fines are regularly adjusted to take account of inflation,<sup>67</sup> linking the amount of penalties to the increase of the national minimum wage, and determining the amount of fines based on criteria such as the repetition of offences, business turnover and the number of workers affected by the offence, or the nature and consequences of the violation.<sup>68</sup>

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<sup>62</sup> For example, *Iraq* – CEACR, Convention No. 81, direct request, published in 2016; *Senegal* – CEACR, observation, published in 2014.

<sup>63</sup> See Article 13(2)(b) of Convention No. 81. See also ILO: *General Survey on labour inspection*, 2006, para. 117.

<sup>64</sup> ILO: *General Survey on labour inspection*, 2006, paras 291–306.

<sup>65</sup> See for example, *Australia* (Part 2, Division 5 of the 2011 Work Health and Safety Act), *New Zealand* (Part 2, Subpart 4 of the 2015 Health and Safety Act), *Russian Federation* (section 143 of the Criminal Code) and *Turkmenistan* (section 151 of the 2010 Criminal Code).

<sup>66</sup> See, for example, *Croatia* (section 95 et seq. of the OSH Act) and *Latvia* (section 41(6) of the Administrative Violations Code).

<sup>67</sup> ILO: *General Survey on labour inspection*, 2006, para. 295.

<sup>68</sup> *ibid.*, para. 299. These findings are confirmed by the replies received in 2016. For example, in *Egypt* and *Poland*, the amount of penalties imposed depends on the harm caused by an infringement, such as loss of life or a serious detriment to the health of workers.

473. In some countries, fines have been increased to achieve improved compliance. In the *United States*, the maximum penalties under the OSH Act were increased in August 2016 by approximately 78 per cent to take into account inflation, and will continue to be adjusted based on the Consumer Price Index. The Committee also noted that in *Sweden* penalty charges have been introduced and the threshold for their imposition lowered to address the most common legislative breaches in the construction sector.<sup>69</sup>

474. The Committee further notes the indications by several workers' organizations regarding the absence of dissuasive penalties for OSH violations, including the Gabonese Confederation of Free Trade Unions (CGSL) in *Gabon* and the Confederation of United Independent Unions (CONUSI) in *Panama*. The Government of *Namibia* also reported that the fines for non-compliance with the OSH regulations were too lenient to deter violations.

**475. *The Committee encourages member States to ensure that the penalties established in the national legislation (whether they are of an administrative, civil or penal nature) are sufficiently dissuasive to deter OSH violations and that they are defined in proportion to the nature and the gravity of the offence.***<sup>70</sup>

#### Importance of the effective enforcement penalties for violations in the area of OSH

476. The Committee has repeatedly emphasized that penalties should not only be prescribed, as is the case in most countries, but must also be effectively enforced to compel employers to take corrective action and to dissuade them from future violations concerning conditions of work. Obstacles to the enforcement of penalties include, for example, time-consuming court proceedings, the lack of political commitment and inadequate cooperation between the labour inspection services and the justice system.<sup>71</sup> An ILO study carried out in 2013 examined various enforcement procedures in member States and the common challenges faced. It found that in some countries penalties are only rarely imposed and that effective enforcement procedures are only conducted if the violation has resulted in serious harm to health or safety.<sup>72</sup> The obstacles encountered in this context include the lack of adequate training for labour inspectors and enforcement staff, and the absence of statistical data to evaluate the performance of the enforcement system and take measures for its improvement.<sup>73</sup>

477. In relation to obstacles in the enforcement of penalties, the Confederation of Workers of Colombia (CTC) indicated that fines are not collected effectively in *Colombia*. The Georgian Trade Unions Confederation (GTUC) observed that the powers of labour monitors are restricted in *Georgia*, and that they are only empowered to issue recommendations to employers, rather than to institute or recommend proceedings.

**478. *The Committee encourages member States to take measures to ensure that penalties for violations in the area of OSH are effectively enforced. This may require a number of different measures, such as the establishment of mechanisms for the effective cooperation of the labour inspection services with the justice system, the additional***

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<sup>69</sup> *Sweden* – CEACR, Convention No. 167, direct request, published in 2015.

<sup>70</sup> ILO: *General Survey on labour inspection*, 2006, paras 291–302.

<sup>71</sup> See CEACR, general observation on the importance of cooperation between the labour inspection services and the justice system, Convention No. 81, published in 2008.

<sup>72</sup> ILO: *Labour inspection sanctions: Law and practice of national labour inspection systems*, Geneva, 2013.

<sup>73</sup> *ibid.*, pp. 42–43.

*training of labour inspectors and enforcement staff, and the collection and review of statistical data on the violations detected and the follow-up action taken, including the outcome of the legal rulings related to the violations, to evaluate the effectiveness of judicial procedures.*

### Key role of labour inspection in disseminating information on safety and health – striking a balance between advice and enforcement

479. The prioritization of prevention is a common theme of Conventions Nos 187, 167, 176 and 184. Labour inspectorates have a key role to play in providing guidance, advice and information to both employers and workers with a view to preventing violations of the OSH legislation and harm to the health and safety of workers.<sup>74</sup> Labour inspectors can help employers understand often technically complex OSH matters and implement the necessary measures to ensure safety and health in the workplace. Labour inspectors can also make workers aware of the specific hazards in the workplace and the precautions necessary to protect themselves and their co-workers. This takes on even greater importance in particularly hazardous sectors, such as construction, mining and agriculture. In this respect, the Committee has noted the various preventive activities undertaken by national labour inspectorates, often in collaboration with the social partners, including educational and promotional activities, information sessions and seminars and meetings on OSH for employers, workers and OSH representatives.<sup>75</sup> For example, the Governments of *Austria* and *Poland* reported that awareness-raising campaigns have been undertaken by the inspectorate in relation to specific risks. The Governments of *Australia*, *Cyprus*, *Ethiopia*, and *Mauritius* highlighted the training on OSH implemented by the labour inspection system.

480. The Committee notes the current discussion in some countries on whether an advisory or sanctions-based approach is more suitable to achieving compliance in the area of OSH. In this regard, it notes the observations of Business New Zealand that, given the complexity of the health and safety legislation, more can be achieved in *New Zealand* through education, assistance and information than by imposing penalties for acts, which SMEs, in particular, may not recognize as being contrary to statutory provisions. The National Confederation of Industry (CNI) indicated that inspections in *Brazil* focus on punitive action, rather than prevention, even though many labour inspectors have no specific training in the area of OSH. The National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) observed that the labour inspectorate in *Mexico* is mostly reactive, sanctioning employers where a violation has occurred, but not taking sufficient action to prevent violations. The IOE also indicated that, while OSH regulations and institutions are very important, compliance with the law has to be accompanied by education, training and support for compliance.

481. In this context, the Committee underlines that preventive measures of the labour inspectorate are intended *to prevent* occupational accidents or diseases or violations from

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<sup>74</sup> See Article 3(1)(b) of Convention No. 81. See also, ILO: *General Survey on occupational safety and health*, 2009, paras 109 et seq.

<sup>75</sup> For example, *Azerbaijan* – CEACR, Convention No. 129, direct request, published in 2014; *Dominican Republic* – CEACR, Convention No. 167, observation, published in 2012; *Latvia* – CEACR, Convention No. 129, direct request, published in 2015; *Malaysia* – CEACR, Convention No. 187, direct request, published in 2015; *Mexico* – CEACR, Convention No. 167, observation, published in 2015; *Poland* – CEACR, Convention No. 129, direct request, published in 2014; *Romania* – CEACR, Convention No. 129, direct request, published in 2014; *Suriname* – CEACR, Convention No. 62, direct request, published in 2015; *Zambia* – CEACR, Convention No. 176, direct request, published in 2014; and *Zimbabwe* – CEACR, Convention No. 81, observation, published in 2014.

occurring. The provision of guidance and advice is essential with a view to preventing occupational safety and health violations, but may not be appropriate to remedy violations once they have occurred. With regard to the possible courses of action once a violation has occurred, the Committee recalls that labour inspectors should have the discretion to be able to order remedial measures and give warnings instead of instituting or recommending proceedings, where the situation so requires, including where the labour inspector concludes that a violation results from a failure to understand the terms or scope of the applicable laws or regulations.<sup>76</sup>

**482. *The Committee recalls that an appropriate balance needs to be struck between the advisory functions of labour inspection, and its enforcement functions.*<sup>77</sup> As emphasized during the 2011 ILC, these functions should be regulated and balanced as part of a comprehensive compliance strategy.<sup>78</sup> The Committee further considers that while the Conventions examined in this Survey prioritize action aimed at preventing occupational accidents and diseases, sanctions remain an important element for effective labour law compliance. The possibility of labour inspectors imposing sanctions, where these are merited and warranted to deter future violations, constitutes an essential component of any preventative strategy.**

## **2. Complementary measures to ensure compliance**

483. Measures to overcome challenges of compliance have been subject to long-standing reflection. In this regard, in addition to emphasizing the importance of providing labour inspection systems with sufficient resources, the preparatory work for Convention No. 187 also recognized the role that could be played by complementary initiatives to ensure compliance with OSH legislation.<sup>79</sup>

484. Complementary enforcement strategies can include measures to publicize the status of OSH conditions in workplaces, the exclusion of actors with poor safety records from participating in public tenders for contracts, increased insurance premiums, the withdrawal of permits and the suspension or revocation of a company's operating licence.<sup>80</sup> For example, the National Confederation of Industry (CNI) indicated that in *Brazil* insurance premiums are increased or reduced according to the OSH record of employers.

485. The preparatory work also highlighted the possibility of entrusting a role in the promotion of compliance to actors other than labour inspectorates, including employers and workers and other public and private entities.<sup>81</sup> Reference was made to mechanisms to ensure that employers comply with their OSH obligations and, in relation to workers, to the role of worker safety representatives, joint safety committees and the establishment

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<sup>76</sup> Article 17 of Convention No. 81; and ILO: *General Survey on labour inspection*, 2006, para. 282.

<sup>77</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 99.

<sup>78</sup> ILO: *Labour administration and labour inspection: Report of the Committee on Labour Administration*, ILC, 100th Session, Geneva, 2011, para. 12 of the Conclusions.

<sup>79</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, paras 54–55.

<sup>80</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 105.

<sup>81</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, paras 54–55. Reference was made to private organizations in technical examinations, such as insurance companies and designated companies. During the preparatory work for Convention No. 167, reference was also made to the delegation of supervisory functions to local bodies. ILO: *Safety and health in construction*, Report V(1), ILC, 73rd Session, 1987, p. 30.

of OSH management systems at the workplace as a collaborative effort between employers and workers.<sup>82</sup>

## Mechanisms for employers to achieve compliance: Risk assessments

486. The Committee has noted that enterprises have been taking on more responsibility, for example by carrying out risk assessments, including compliance self-assessments, which are increasingly being required as part of the effective management of OSH in the workplace.<sup>83</sup> The Committee noted that, in certain countries, including *India* and *Viet Nam*, self-assessments have to be submitted to the labour inspectorate as a means of providing information for the planning of inspection strategies.<sup>84</sup> As indicated in Chapter IV of this General Survey, countries are also taking measures to assist or encourage employers (especially in SMEs) to comply with their risk assessment obligations. Despite these efforts, the Committee notes the indication by certain trade unions that employers are not fulfilling their obligations in relation to risk assessments.<sup>85</sup> It further notes the observations by the IOE concerning Convention No. 184 that farmers may not have sufficient infrastructure to conduct risk assessments. While the Committee has requested a number of countries to provide information on how the legal obligation of employers to carry out risk assessments is supervised in practice,<sup>86</sup> little information is thus far available in this respect.

487. The Committee notes that the promotion of workplace risk-management initiatives appears in some countries to have been accompanied by limitations on inspection activities, or reductions in the number of inspections.<sup>87</sup> For example, the joint observations of the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that the scope of labour

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<sup>82</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, paras 54–55.

<sup>83</sup> See ILO: *General Survey on occupational safety and health*, 2009, para. 108.

<sup>84</sup> *India* – CEACR, Convention No. 81, observation, published in 2016; *Viet Nam* – CEACR, Convention No. 81, direct request, published in 2013.

<sup>85</sup> In *Mexico*, the National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM); and in the *Republic of Korea*, the Federation of Korean Trade Unions (FKTU). The Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP) alleged that a significant number of employers do not have a risk-assessment system and do not comply with their obligations under the Working Conditions Act to seek expert OSH assistance. See ILO: *Report of the Committee set up to examine the representation alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP)*, Governing Body, 322nd Session, Oct.–Nov. 2014, GB.322/INS/13/7.

<sup>86</sup> For example, *United Kingdom* – CEACR, Convention No. 81, observation, published in 2016; *United Kingdom: Jersey* – CEACR, Convention No. 81, direct request, published in 2016; *Serbia* – CEACR, Convention No. 81, direct request, published in 2014; *Viet Nam* – CEACR, Convention No. 81, direct request, published in 2013.

<sup>87</sup> For example, *India* – CEACR, Convention No. 81, observation, published in 2016; and ILO: *Report of the committee set up to examine the representation alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP)*, Governing Body, 322nd Session, Oct.–Nov. 2014, GB.322/INS/13/7.

inspections in *Ukraine* has been severely restricted, as OSH inspections are now carried out on the basis of risk analyses undertaken by employers themselves, particularly as they often lack the required expertise to undertake such assessments.

**488. As emphasized in Chapter IV, assessments at the workplace level are important OSH tools, as they provide employers with the possibility to improve their understanding of the relevant requirements and to take remedial action, where necessary. However, the Committee emphasizes that these methods are aimed at ensuring that employers comply with their obligations, and should not be considered as a replacement for the supervisory and enforcement functions of the labour inspectorate.**

## Involvement of workers and trade unions in compliance

489. The Committee notes that the national legislation in many countries, such as in the Member States of the European Union, established the right for workers or their representatives to participate in risk assessments carried out by employers.<sup>88</sup> In *United States*, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) indicated that many standards on toxic substances and safety hazards require risk assessments and that they permit workers to observe or participate in these assessments, and entitle workers and their representatives to receive the results of the assessments. Other forms of participation in monitoring compliance with OSH have also been examined throughout this General Survey, including the important role played by OSH representatives or committees, and the promotion of worker participation through the development of a safety and health culture. In this context, the Committee also notes that certain trade unions have referred to the positive experience of the involvement of trade unions in labour inspection.<sup>89</sup>

**490. The Committee emphasizes the importance of the participation of workers in the promotion of compliance, and recalls that this requires the provision of adequate and appropriate training, as well as measures to ensure that workers receive the necessary health and safety information. Moreover, the involvement of workers in workplace monitoring should not be linked to a reduction in the enforcement function of independent labour inspectors.<sup>90</sup> The Committee also recalls the need to ensure the protection of workers and their representatives from disciplinary measures for action taken in this respect.<sup>91</sup>**

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<sup>88</sup> See Article 11(2) in conjunction with Article 9(1) of Council Directive 89/391/EEC of 12 June 1989.

<sup>89</sup> For example, the All-Poland Alliance of Trade Unions (OPZZ) in *Poland*; and the Confederation of Labour of the Argentine Republic (CGT RA) in *Argentina*.

<sup>90</sup> ILO: *Report of the Committee set up to examine the representation alleging non-observance by the Netherlands of the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Occupational Safety and Health Convention, 1981 (No. 155), made under article 24 of the ILO Constitution by the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation of Professionals (VCP)*, Governing Body, 322nd Session, Oct.–Nov. 2014, GB.322/INS/13/7.

<sup>91</sup> Article 5(e) of Convention No. 155.

## Incentive schemes

491. The preparatory work for Convention No. 187 recognized the use of incentives as a complementary measure to ensure compliance.<sup>92</sup> These measures may include, for example, voluntary accreditation schemes acknowledging employers who have exemplary safety records,<sup>93</sup> or the presentation of prizes and awards for high OSH performance.<sup>94</sup> For example, the Government of the *United States* implements a voluntary programme which recognizes employers that have implemented effective safety and health management systems and maintained injury and disease rates below the average for their respective industries. To participate in the programme, employers must undergo a rigorous on-site evaluation by a team of safety and health professionals, and following acceptance into the programme, the enterprise is exempt from programmed inspections, subject to periodic re-evaluation. The Committee understands that this initiative depends on accurate and good faith reporting of data on accidents and occupational diseases and that inaccurate reporting would be a serious violation liable to the imposition of dissuasive penalties. The Government of *Indonesia* reported that it awards recognition annually to companies for “zero accidents”, and the Government of *Sri Lanka* introduced an OSH excellence award scheme in 2014 to recognize companies that have implemented good safety practices and achieved excellent safety performance.

## Private compliance initiatives

492. The Committee notes that an increasing number of private compliance initiatives (PCIs) with differing objectives have been developed in recent years with the objective, among others, of assessing conformity with national and international standards in the area of OSH.

493. The Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives, held in December 2013, reviewed current global trends in PCIs and their impact on working conditions.<sup>95</sup> The Meeting concluded that there are a variety of different types of PCIs and that their impact, sustainability and effects, including in the field of OSH, require further analysis.<sup>96</sup> However, it was emphasized by all participants that labour inspection should remain a public function, that enforcement could not be subcontracted or delegated to private bodies, and that PCIs should not exempt enterprises from the obligation of complying with labour laws or from workplace inspections by public authorities. In this context, it was highlighted that PCIs could only play a complementary role in compliance and that coordination with labour inspectorates is possible and could work successfully, without undermining the role of labour inspection.<sup>97</sup> Moreover, workers’ and employers’ organizations should be more closely involved in these initiatives.<sup>98</sup>

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<sup>92</sup> ILO: *Promotional framework for occupational safety and health*, Report IV(1), ILC, 93rd Session, 2005, para. 55.

<sup>93</sup> ILO: *General Survey on occupational safety and health*, 2009, para. 108.

<sup>94</sup> For example, *Indonesia*, *Republic of Korea*, *Singapore* and *Sri Lanka*.

<sup>95</sup> ILO: *Meeting of Experts on Labour Inspection and the Role of Private Compliance Initiatives* (Geneva, 10–12 December), Final report, MEPCI/2013/7.

<sup>96</sup> *ibid.*, para. 7 of the Chairperson’s summary.

<sup>97</sup> *ibid.*, para. 11 of the Chairperson’s summary.

<sup>98</sup> *ibid.*, para. 10 of the Chairperson’s summary. In this regard, the General Union of Workers (UGT) of *Spain* reported that some private compliance initiatives have started to involve workers’ organizations.

494. With regard to safety and health, a recent ILO report on decent work in global supply chains highlighted that it has been widely acknowledged that corporate social responsibility initiatives and social auditing by leading firms have achieved some success in addressing violations of labour standards related to OSH.<sup>99</sup> However, the report highlighted a number of fundamental limitations to the effectiveness of PCIs in ensuring long-term compliance, including a lack of accountability, worker participation and coordination with the local labour administration, and the fact that they are often limited to lead firms and upper-tier suppliers (rather than the lower-tier firms, where cases of non-compliance are frequently documented).<sup>100</sup> Nevertheless, the report recognized that the strengths of PCIs lie in their potential to increase the capacity for workplace compliance, including with respect to safety and health.<sup>101</sup> In this respect, the Conference Committee on Decent Work in Global Supply Chains concluded, with respect to PCIs, that efforts by other stakeholders to promote workplace compliance can support, but not replace, the effectiveness and efficiency of public governance systems.<sup>102</sup>

*495. With reference to the considerations above, the Committee considers that effective PCIs can contribute to addressing compliance gaps with respect to OSH. In light of the record of risks to life, safety and health experienced by workers, PCIs can effectively play this role, especially in relation to the ability of lead firms to monitor supply chain practices, and complement the public enforcement of safety and health standards. However, such initiatives are not a substitute for public labour inspection and should not exempt member States from taking the necessary measures in this regard, nor should they take the place or be taken as an excuse for reducing the capacity and frequency of public labour inspection visits.*

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*496. Labour inspection is the primary means of securing compliance with OSH standards. The Committee therefore calls on member States to make the necessary efforts to maintain and strengthen their national labour inspection systems to achieve this objective. Since advice and enforcement are inseparable in practice, the Committee encourages member States to devise compliance strategies that encourage, help and guide employers to comply voluntarily. It further encourages member States to ensure that those employers who do not comply voluntarily are appropriately sanctioned, taking into account the gravity of the violation. While the involvement of employers and workers in compliance monitoring and assessment, as well as new forms of private compliance and innovative mechanisms, are to be welcomed, such strategies cannot replace the compliance and enforcement functions undertaken by independent and specially trained public servants.*

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<sup>99</sup> ILO: *Decent work in global supply chains*, Report IV, ILC, 105th Session, 2016, para. 138.

<sup>100</sup> *ibid.*, paras 138–139.

<sup>101</sup> *ibid.*, para. 140.

<sup>102</sup> ILO: *Reports of the Committee on Decent Work in Global Supply Chains: Resolution and conclusions*, ILC, 105th Session, Geneva, 2016, para. 10.



## Chapter VI. Achieving the potential of the instruments

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### 1. Measures to give further effect to the instruments

497. The report form for this General Survey asked governments to provide information on the impact of the ILO instruments under examination. In particular, governments were asked to report on any modifications in national legislation or practice, or any intention to adopt measures, including ratification, to give effect to the provisions of the instruments, as well as any difficulties that may prevent or delay ratification.

#### Implementation of the instruments

498. In addition to the numerous cases of progress noted by the Committee with respect to member States that have ratified the Conventions, a number of governments indicated in their replies that they have adopted measures to incorporate the provisions of the instruments into national legislation, despite not having ratified the Conventions. The Government of *Brazil* reported that the Tripartite OSH Committee was established in 2008 for the purpose of evaluating and proposing measures for the national application of Convention No. 187, including reviewing the OSH policy, developing a national OSH programme and making proposals to improve the national OSH system. The Government of *Greece* reported taking Convention No. 187 into account when developing its national OSH programme, particularly with regard to the setting of specific goals and objectives. The Government of *Australia* indicated that the National Mine Safety Framework (including the development of model regulations for implementation by jurisdictions) was developed with the aim of incorporating the principles of Convention No. 176. The Government of *Bosnia and Herzegovina* indicated that ILO Conventions relating to OSH, including Convention No. 167, were taken into account in the development of the new draft OSH law. Moreover, the Government of *Sri Lanka* reported that it is undertaking legislative revisions taking into account the ILO Conventions on OSH, and the Government of *Uganda* also indicated that a national policy is under development and the Government of *Trinidad and Tobago* reported that consideration will be given to ILO OSH standards during the process of the planned amendment of the OSH Act.

499. Certain governments also reported that their national legislation is in general conformity with the Conventions covered by the Survey, including the Governments of *Belarus*, *Bulgaria* and *Lithuania*. The Government of *Greece* indicated that national legislation is in conformity with Conventions Nos 167 and 187, while the Government of *Estonia* reported that the general principles of Convention No. 187 are reflected in national safety and health legislation. The Government of *Barbados* reported that the Safety and Health at Work Act of 2013 gives effect to most of the provisions of the Conventions and

Recommendations and the planned legislative revision will further address additional aspects in this regard.

## Ratification of the instruments

### Prospects for ratification

500. Several governments reported taking steps towards the ratification of Convention No. 187. The Governments of *Italy* and *Portugal* indicated that they have begun the process of ratification. The Government of *Belgium* indicated that the process of ratification of the Convention was ongoing, as the National Parliament has approved ratification in April 2014, while the approval of the Communities is still pending. The Government of *China* indicated that the State Administration on Work Safety is working on the ratification of the Convention. The Government of *Morocco* indicated that the process of ratification started in 2012 and that ratification was approved by the National Parliament in 2013.<sup>1</sup> The Government of *Senegal* indicated that the ratification process started with the preparation of a comparative analysis of national legislation with the provisions of the Convention. The Government of *Namibia* indicated that it is working on OSH systems and structures, including the development of a national policy on OSH through the Decent Work Country Programme to accelerate the process of ratification of the OSH Conventions, including Convention No. 187. The Government of *Philippines* indicated that consultations have been undertaken for the ratification of the Convention, and that the issue is under consideration by the Department of Foreign Affairs.

501. Some governments reported examining steps for the ratification of Convention No. 176. The Government of *Argentina* indicated that it was working on the ratification of the Convention. The Government of *Denmark* indicated that the national authorities are examining the Convention, as well as any measures that would have to be taken for its implementation. It added that the Government of Greenland has expressed an interest in being covered by the ratification of the Convention by *Denmark*. The Government of *Mexico* indicated that the possibility of ratifying the Convention was examined in 2012, and it was found that the Convention and the national legislation were consistent. Proceedings for the submission of the Convention have been initiated, and the Senate will in turn provide its opinion on the feasibility of ratification.

502. The Government of *Albania* indicated that the ratification of Convention No. 184 was foreseen in its 2016–20 Occupational Safety and Health Policy and its accompanying action plan.

503. Several governments reported their intention to consider the ratification of certain of the instruments in the future. The Government of *Estonia* indicated that, following discussions on possible amendments to the OSH Act, a group of experts recommended in 2011 the examination, as a matter of priority, of the possibility of ratifying Convention No. 187, as well as Conventions Nos 155 and 161. The Government of *Montenegro* indicated that it is considering ratifying Conventions Nos 176 and 184, and the Government of *Morocco* indicated that the ratification of Conventions Nos 167 and 184 are under consideration. The Government of *Uruguay* reported that the revision of the national legislation is ongoing, and that this process may include an analysis of ILO

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<sup>1</sup> The Government of *Morocco* has yet to complete the process of ratification of Convention No. 187 by communicating the formal ratification of the Convention to the Director-General of the ILO, as provided for in article 19 of the ILO Constitution. *Morocco* ratified Convention No. 176 in 2013.

instruments that have not yet been ratified, such as Convention No. 187.<sup>2</sup> The Government of *Viet Nam* highlighted the efforts made to improve national OSH legislation and indicated that the preparation of a roadmap for the ratification of the Conventions is under consideration. The Government of *Germany* indicated that the ratification of Convention No. 184 is still under consideration. The Government of the *Russian Federation* emphasized that it is working to align and harmonize OSH legislation with Conventions Nos 167 and 184, which would accelerate preparations for their ratification.<sup>3</sup>

504. Certain governments which have not ratified any of the four Conventions examined indicated, in general, that ratification would be considered, including the Governments of *Antigua and Barbuda*, *Barbados*, *Ethiopia*, *Israel*, *Tunisia*, *United Republic of Tanzania* and *Uzbekistan*. In addition, the Government of *Croatia* indicated its intention to adopt measures to give further effect to the provisions of the Conventions, including ratification. The Government of *Ecuador* indicated that the national legislation is undergoing a revision and that, in the future, coordination efforts with the institutions involved will be directed towards analysing the possibility of ratifying the Conventions. The Government of *Greece* highlighted its intention to examine ways of overcoming the obstacles to ratification that have been identified. The Government of *Saint Vincent and the Grenadines* highlighted its firm intention of adopting new OSH legislation and that, following enactment, there is a strong possibility of ratifying at least one of the OSH Conventions. The Government of *Seychelles* indicated that, following the forthcoming launch of the national OSH policy, due consideration will be given to the ratification of the relevant OSH Conventions.

505. Some governments also reported that tripartite consultations have, or will be undertaken, to discuss the possibility of ratification. The Government of *Zimbabwe* indicated that consultative efforts are under way to give consideration to the ratification of Convention No. 187. The Government of *Algeria* indicated that the ratification of Convention No. 187 is on its agenda and will be submitted for tripartite consultation.<sup>4</sup> The Government of the *Czech Republic* indicated that a tripartite review of unratified Conventions started in 2015, offering an opportunity to consider ratifying Convention No. 184. The Government of *Mauritius* reported that tripartite consultations will be held to undertake an in-depth examination of the requirements of Conventions Nos 167 and 184 with a view to identifying existing obstacles and proposing action for their ratification.<sup>5</sup> The Government of *Guatemala* indicated that further extensive consultations are needed to identify the obstacles in practice to ratification and that the ongoing implementation of OSH measures was necessary prior to the consideration of ratification.<sup>6</sup> The Government of the *Republic of Korea* indicated that it will examine the Conventions with a view to their ratification in consultation with workers' and employers' organizations.<sup>7</sup>

### Difficulties preventing or delaying ratification

506. A number of member States however reported that ratification is not currently foreseen or intended for one or more of the instruments. They include the Governments of

<sup>2</sup> *Uruguay* ratified Conventions Nos 167, 176 and 184 in 2005, 2014 and 2005 respectively.

<sup>3</sup> *Russian Federation* ratified Conventions Nos 176 and 187 in 2013 and 2011 respectively.

<sup>4</sup> *Algeria* ratified Convention No. 167 in 2006.

<sup>5</sup> *Mauritius* ratified Convention No. 187 in 2012.

<sup>6</sup> *Guatemala* ratified Convention No. 167 in 1991.

<sup>7</sup> *Republic of Korea* ratified Convention No. 187 in 2008.

*Austria* (Conventions Nos 167 and 184), *Belarus* (Conventions Nos 176, 184 and 187), *Costa Rica* (Conventions Nos 167, 176, 184 and 187), *Georgia* (Conventions Nos 167, 176, 184 and 187), *Japan* (Conventions Nos 167, 176 and 184), *Latvia* (Conventions Nos 167, 176, 184 and 187), *Madagascar* (Conventions Nos 167, 176, 184 and 187), *Mali* (Conventions Nos 167, 176, 184 and 187), *Netherlands* (Conventions Nos 167, 176 and 184), *New Zealand* (Conventions Nos 167, 176, 184 and 187), *Panama* (Conventions Nos 176, 184 and 187), *Poland* (Conventions Nos 167, 184 and 187), *Switzerland* (Conventions Nos 167, 176, 184 and 187), *the former Yugoslav Republic of Macedonia* (Conventions Nos 167, 176 and 184), *United States* (Conventions Nos 167, 184 and 187) and *Bolivarian Republic of Venezuela* (Conventions Nos 167, 176, 184 and 187).

## Legislative obstacles

507. Several governments indicated that the ratification of certain Conventions is not foreseen as they consider aspects of their legislation not to be in conformity with the provisions of the instrument. The Governments of *Cameroon*, *Japan*<sup>8</sup> and *Seychelles* referred to inconsistency between ILO Conventions and national legislation generally as an obstacle. The Government of *Switzerland* reported that the dual nature of its system for the protection of workers precludes ratification. The Government of *Singapore* reported that it is necessary to ensure full compliance with the text and the spirit of each Convention before ratification.<sup>9</sup>

508. With respect to Convention No. 167, the Governments of *Austria*, *Bosnia and Herzegovina*, *Cyprus*, *Greece*, *Pakistan*, *Republic of Korea* and *Spain* reported legislative differences that will impede ratification. For example, the *Republic of Korea* identified the fact that the national legislation does not include provisions on the safety and health of the general public in the vicinity of a construction site as an obstacle to ratification. The Government of *Pakistan* indicated that it would require specific legislation covering construction sector workers.

509. Concerning Convention No. 176, the Governments of *Denmark* and *Switzerland* identified certain legislative difficulties. The Government of *Denmark* indicated that the national legislation does not contain provisions concerning certain aspects of the Convention relating to underground work (list of persons underground and ventilation in underground facilities), as the country does not have any underground mining. The Government of *Switzerland* indicated that Swiss legislation does not correspond to certain of the detailed prescriptions contained in the Convention, and that the Convention confers on workers a broader right to be consulted than that contained in national legislation, in addition to touching on several issues that are under cantonal competence.

510. With respect to Convention No. 184, the Governments of *Barbados*, *Cyprus*, *Denmark*, *Greece*, *Republic of Korea*, *Mexico*, *Spain* and *Switzerland* identified certain provisions of the national legislation that are not in complete conformity with the Convention as obstacles to ratification. For example, the Government of *Cyprus* indicated that certain legal provisions are not in conformity with the provisions of the Convention regarding the safe use of chemicals, machinery and work equipment, and the Government of *Greece* reported that the national legislation does not prescribe minimum accommodation standards for workers who are required to live temporarily or permanently in the undertaking.

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<sup>8</sup> *Japan* ratified Convention No. 187 in 2007.

<sup>9</sup> *Singapore* ratified Convention No. 187 in 2012.

511. With respect to Convention No. 187, the Government of *Greece* reported that Convention No. 187 applies to all sectors, but that there is a specific regime in the national legislation governing maritime transport. The Government of *Switzerland* indicated that it has no intention of centralizing its OSH system to align it with Convention No. 187. The Government of *Mexico* reported that it cannot take into account the principles contained in non-ratified ILO Conventions relevant to the promotional framework for OSH. The Government of *Pakistan* reported deficiencies in national legislation, and indicated that once the legislative and institutional framework is in place it could take further steps to ratify Convention No. 187. To this end, it has decided to prepare a report analysing its national legislation and trends. The Government of *Trinidad and Tobago* reported that national legislation requires review and amendment in order to consider the ratification of Convention No. 187. The Government of *Barbados* indicated that the absence of a national profile and a national programme, to be developed in consultation with employers' and workers' organizations, impedes ratification of Convention No. 187.

### Practical difficulties impeding ratification

512. A number of governments identified practical difficulties impeding the ratification of the instruments. The Governments of *China*,<sup>10</sup> *Cyprus*<sup>11</sup> and *Togo*<sup>12</sup> indicated that coordination between government authorities working on various OSH issues will need to be strengthened prior to ratification. The Governments of *Mali* and *Namibia* referred to the lack of a national OSH policy as a barrier to ratification. The Government of *Greece* reported that, with respect to Convention No. 187, the establishment of a mechanism for the collection and analysis of data on occupational injuries and diseases would be difficult at present, as would the provision of support mechanisms for the progressive improvement of OSH conditions in the informal economy. The Government of *India* reported that it would need to set up a national tripartite advisory body to be in accordance with Convention No. 187.

513. Certain governments underlined that ratification is not currently feasible due to a lack of capacity. The Government of *Cambodia* reported that a lack of knowledge and understanding by government officials related to OSH needs in specific industries, namely mining, constitutes an obstacle impeding ratification. The Government of *Estonia* indicated that the Ministry of Social Affairs has limited capacity for the ratification of ILO Conventions and subsequent periodic reporting.

514. Other governments identified a lack of financial and human resources as a barrier to ratification, including the Governments of *Colombia*<sup>13</sup> and *Honduras*, as well as the Government of *Cyprus*, which indicated that additional resources would need to be allocated to the Department of Labour Inspection for construction, mining and agriculture. The Government of *Mali* referred to the low level of economic development in general, particularly in the sectors concerned, as being an obstacle to ratification.

<sup>10</sup> *China* ratified Convention No. 167 in 2002.

<sup>11</sup> *Cyprus* ratified Convention No. 187 in 2009.

<sup>12</sup> *Togo* ratified Convention No. 187 in 2012.

<sup>13</sup> *Colombia* ratified Convention No. 167 in 1994.

## States parties to Convention No. 62

515. The Committee takes due note of the Governing Body decision, pursuant to the recommendation of the Standards Review Mechanism's<sup>14</sup> Tripartite Working Group requesting the Office to follow-up with the member States currently bound by Convention No. 62 and encouraging them to ratify Convention No. 167, which would result in the automatic denunciation of Convention No. 62.<sup>15</sup> It notes that out of the 20 member States bound by Convention No. 62, a number of them provided specific information concerning the possibility of ratifying Convention No. 167. The Government of *Greece* indicated that, while the national legislation gives effect to Convention No. 167 in general, there are no legislative provisions related to work in compressed air, although regulations related to underground engineering work could be considered as partially meeting this requirement. The Government also indicated that national legislation does not require the establishment of health and safety committees, as recommended by Recommendation No. 175. The Government of the *Netherlands* indicated that its intention was to focus on the implementation of ratified OSH Conventions, and that ratification of the sectoral Conventions was not envisioned, as those sectors were covered by general working conditions legislation. The Government of *Spain* indicated that national legislation, in line with the Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, offers stronger occupational safety and health protection than Convention No. 167, and that its obstacles to ratification are related to a mismatch between the scope of application of the Convention and national legislation. The Government of *Switzerland* referred to a report from 1989 examining Convention No. 167, in which it indicated that although most of the requirements of the Convention were met, ratification was not recommended, as it was not possible to apply the provisions of the Convention to self-employed persons, as such workers were not covered by legislation concerning the prevention of accidents.

516. In addition, certain States party to Convention No. 62 provided general information on prospects for ratification. The Government of *Bulgaria* indicated that most of the requirements of the Conventions covered in the General Survey have been met. The Government of *Egypt* indicated that there were no obstacles to ratification and that it is constantly developing legislation in the light of international labour standards. The Government of *Honduras* indicated that the country does not have the necessary economic situation or political structure, but that the new public investment plans could generate the necessary enabling environment for ratification. The Government of *Poland* indicated that it did not intend, at this time, to ratify any of the Conventions covered by the General Survey. The Government of *Suriname* indicated that an assessment had to be made in

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<sup>14</sup> In 2011, the Governing Body decided that a Standards Review Mechanism should be established, and in March 2015, it decided to establish under the Standards Review Mechanism a Tripartite Working Group (TWG). The SRM TWG is mandated to contribute to the overall objective of the SRM to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises. The first and second meetings of the SRM TWG took place in February and October 2016 (ILO: *Record of decisions*, Governing Body, 312th Session, Geneva, Nov. 2011, dec-GB.312/LILS/5; ILO: *The standards initiative: Terms of reference of the Standards Review Mechanism Tripartite Working Group*, Governing Body, 325th Session, Geneva, Oct.–Nov. 2015; GB.325/LILS/3, Appendix, paras 8–13; ILO: *The standards initiative: Report of the first meeting of the Standards Review Mechanism Tripartite Working Group*, Governing Body, 326th Session, Geneva, Mar. 2016, GB.326/LILS/3/2).

<sup>15</sup> ILO: Decisions on the second item on the agenda – The Standards Initiative – Report of the second meeting of the Standards Review Mechanism Tripartite Working Group, Governing Body, 328th Session, October–November 2016 (dec-GB.328/LILS/2/1).

order to identify obstacles, if any, to ratifying these standards. The Government of *Tunisia* indicated that the principles of the Convention are enshrined in national practice.

### States parties to Convention No. 45

517. The Committee also notes that the SRM TWG will be examining Convention No. 45 at a date to be determined.<sup>16</sup> Noting that, pursuant to the recommendation of the Working Party on Policy regarding the Revision of Standards (Cartier Working Party), the Governing Body decided to invite State parties to Convention No. 45 to contemplate ratifying Convention No. 176 and *possibly* denouncing Convention No. 45,<sup>17</sup> the Committee notes that out of the 70 member States in which Convention No. 45 is in force, nine of them have ratified Convention No. 176.<sup>18</sup> Concerning states parties to Convention No. 45 that have not ratified Convention No. 176, certain governments provided specific information related to the ratification of the latter.<sup>19</sup> The Government of *Argentina* indicated that it was working on the ratification of the Convention, while the Government of *Montenegro* said that it was considering ratification. The Governments of *Greece* and *India* indicated that the national legislation concerning mining was in general conformity with the Convention. In terms of obstacles identified, the Government of *Cyprus* highlighted additional resources would need to be allocated to the inspectorate to target mining undertakings and effectively enforce the Convention, and that certain issues covered by the Convention were under other authorities. The Government of *Switzerland* referred to a report from 1998 in which it indicated that national legislation did not completely correspond to the detailed prescriptions of the Convention, and that certain issues covered by the Convention fell under cantonal competence.

### Certain misconceptions about the requirements of the instruments

518. The Committee notes certain misconceptions about the requirements of the instruments which, in some cases, have led governments to indicate that they are unable to ratify the Conventions.

<sup>16</sup> ILO: *The Standards Initiative: Report of the first meeting of the Standards Review Mechanism Tripartite Working Group: Report of the Officers, in accordance with paragraph 17 of the terms of reference of the Standards Review Mechanism Tripartite Working Group*, Governing Body, 326th Session, Mar. 2016, GB.326/LILS/3/2.

<sup>17</sup> ILO: *Working Party on Policy regarding the Revision of Standards – Follow-up to the recommendation of the Working Party*, Governing Body, 283rd Session, Geneva, 2002, GB.283/LILS/WP/PRS/1/2.

<sup>18</sup> *Bosnia and Herzegovina, Brazil, Lebanon, Morocco, Portugal, Russian Federation, South Africa, Turkey and Ukraine.*

<sup>19</sup> Certain such governments also provided general information, relating to all of the Conventions covered by the General Survey. The following governments indicated that ratification was under consideration: *Croatia* and *Ecuador*. The following governments identified no obstacles to ratification: *Cuba, Dominican Republic, Egypt, and United Republic of Tanzania*. The following governments indicated that the national legislation was in general conformity with the Conventions: *Belarus, Bolivarian Republic of Venezuela, Bulgaria and Costa Rica*. The following governments indicated that ratification was not considered at this time: *Belarus, Bolivarian Republic of Venezuela, Costa Rica, Panama, and the former Yugoslav Republic of Macedonia*.

**Box 6**  
**Clarifications on the requirements of the instruments  
based on certain misconceptions reported**

- Ratification of Convention No. 155 is not a prerequisite for the ratification of Convention No. 187.
- Convention No. 167 applies to such self-employed persons as may be specified by national laws or regulations.
- Convention No. 184 does not require coverage of self-employed workers, while its accompanying Recommendation No. 192 provides that member States should make plans to extend progressively to self-employed farmers the protection afforded by the Convention, as appropriate, taking into consideration the views of representative organizations of self-employed farmers.
- Convention No. 184 does not establish a general minimum age for admission to work and its provisions are consistent with Conventions Nos 138 and 182.

519. Two governments<sup>20</sup> reported difficulties with respect to the ratification of Convention No. 187 as they have not yet ratified Convention No. 155. ***In this respect, the Committee highlights that, while Conventions Nos 155 and 187 are complementary, ratification of Convention No. 155 is by no means a prerequisite for the ratification of Convention No. 187.*** Indeed, as a promotional framework with a focus on the *progressive* development of a national system on OSH, Convention No. 187 has been viewed by many countries as a good first step towards improving OSH. Moreover, as of July 2016, more than one third of the countries that had ratified Convention No. 187 had done so without having ratified Convention No. 155.<sup>21</sup>

520. Three governments<sup>22</sup> reported that they could not ratify Convention No. 167, and two<sup>23</sup> that they could not ratify Convention No. 184 because the national legislation does not cover self-employed workers. ***In this connection, the Committee emphasizes that Convention No. 167 applies to such self-employed persons as may be specified by national laws or regulations, meaning that the coverage of such workers is subject to determination at the national level. With respect to agriculture, Convention No. 184 does not require coverage of self-employed workers, and Recommendation No. 192, which is a non-binding instrument, provides that member States should make plans to progressively extend the protection of the Convention to self-employed farmers, as appropriate, taking into consideration the views of representative organizations of such farmers.***

521. Moreover, with respect to Convention No. 184, certain countries referred to the minimum age for admission to hazardous work in agriculture as an obstacle.<sup>24</sup> For example, one government reported that it could not ratify Convention No. 184 as the minimum age in the country is 15 years, while Convention No. 184 requires a minimum

<sup>20</sup> Greece and Mali.

<sup>21</sup> 15 countries have ratified Convention No. 187 and not Convention No. 155.

<sup>22</sup> Austria, Republic of Korea and Switzerland.

<sup>23</sup> Austria and Greece.

<sup>24</sup> Denmark and Mexico: Both countries have ratified Conventions Nos 138 and 182. The IOE also indicated that it believed that the Convention limited all agricultural labour for children under 18.



age of 16 years.<sup>25</sup> *In this respect, the Committee clarifies that Convention No. 184 does not establish a general minimum age for admission to work.* The minimum age of 16 years specified in Article 16(3) of Convention No. 184 refers only to the minimum age for hazardous work, and is not a general minimum age. Like Conventions Nos 138 and 182, Convention No. 184 prohibits children under 18 from performing work which by its nature or the circumstances in which it is carried out is likely to harm their safety and health, and like Convention No. 138, it allows a limited exception for the performance of certain types of potentially hazardous forms of work by children from the age of 16 on condition that appropriate prior training is given and the safety and health of the young workers is fully protected. The provisions of Convention No. 184 are therefore consistent with the provisions of Conventions Nos 138 and 182 on hazardous work, and countries that have ratified one of those Conventions, and included hazardous work in agriculture on the list of types of work prohibited for children under 18 (or under 16 under certain conditions), would be in conformity with the Convention.

*522. In addition, with respect to working time arrangements, the Committee highlights that Convention No. 184 does not prescribe specific requirements, providing only that hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements.*<sup>26</sup>

523. Some governments reported that their national law or practice is not in conformity with the provisions of certain accompanying Recommendations, and that this constitutes an obstacle to ratification.<sup>27</sup> In this connection, the Committee recalls that, while a Recommendation contains useful guidance on the implementation of a Convention, it is not binding and its provisions should not therefore constitute a barrier to the ratification of a particular Convention.

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*524. In light of certain replies received, the Committee stresses that the important obligation for countries that have ratified Convention No. 187 to engage in tripartite dialogue, at regular intervals, to examine measures that could be taken towards ratification of relevant OSH Conventions,<sup>28</sup> should not be construed as an obligation to ratify any OSH Convention on which countries have engaged in such dialogue.*

*525. At the same time, the Committee takes due note of the fact that over 30 countries indicated that they are considering ratification, or taking steps towards ratification, of at least one of the Conventions examined in this Survey, including ten countries with respect to Convention No. 187.*

*526. The Committee trusts that governments will make full use of the important OSH framework established in ILO instruments for the promotion of the continuous improvement of OSH. It invites governments to engage in tripartite dialogue in this regard, and to take advantage of ILO technical assistance for the implementation of the important principles contained in these Conventions.*

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<sup>25</sup> Denmark.

<sup>26</sup> Article 20 of Convention No. 184.

<sup>27</sup> For example, Greece (Recommendation No. 175).

<sup>28</sup> Article 2(3) of Convention No. 187.

## 2. Proposals for ILO action

527. A number of governments and employers' and workers' organizations provided comments concerning possible standards-related action, as well as policy support and development cooperation that the ILO could provide to member States and constituents to improve the implementation of Conventions Nos 167, 176, 184 and 187.

### Technical cooperation and technical assistance needs

#### Comments from governments

528. The Committee notes that a significant number of countries reported receiving policy support and development cooperation in the area of OSH. The Governments of *Albania, Chile, Costa Rica, Mexico, Morocco, Seychelles, Senegal* and *Sudan* reported receiving support in the development of their national policy on occupational safety and health, and the Governments of *Costa Rica, Namibia, Seychelles* and *Senegal* indicated that they have received assistance in the development of a national OSH profile, as recommended by Recommendation No. 197.

529. Moreover, with respect to support for the revision of legislation relating to OSH, the Governments of *Georgia, Iraq, Seychelles* and *Saint Vincent and the Grenadines* indicated that ILO assistance has been provided, and the Government of *El Salvador* reported technical assistance received for the development of OSH guidelines. The Governments of *Mauritius, Panama* and *Uganda* reported that government staff have participated in training at the ILO International Training Centre in Turin (ITC–ILO), while the Governments of *Kazakhstan, Uruguay* and *Uzbekistan* reported collaboration with the ILO on awareness-raising measures on OSH. The Governments of *Georgia, Pakistan, Panama, Paraguay, Peru, Spain* and *Sudan* indicated that support has been provided for the strengthening of labour inspection, and the Governments of *Egypt* and *Pakistan* reported on technical support received to strengthen the capacity of the tripartite partners on OSH issues. The Government of the *Philippines* provided information on the implementation of an ILO project on safe and healthy youth and the Government of *Indonesia* indicated that the ILO has provided technical assistance related to OSH standards in statistical data collection and training. The Governments of *Argentina, Panama* and *Viet Nam* indicated that technical assistance has been provided on occupational safety and health in construction, while the Governments of *Cuba* and *Zimbabwe* reported receiving assistance relating to OSH in agriculture.

530. Concerning possibilities for future assistance, certain governments requested ILO technical support in considering the ratification of certain of the Conventions examined in the Survey, as well as Convention No. 155. The Government of *Mali* requested technical assistance for the ratification of Conventions Nos 176 and 187, including support for ongoing initiatives to review legislation and develop national OSH capacities. The Government of *Namibia* indicated that it would welcome ILO technical support to gradually achieve the ratification of Conventions Nos 155 and 187, which have been identified as priorities, including for the ongoing drafting of the national OSH policy and programme. The Government of the *Republic of Moldova*, which has ratified Conventions Nos 184 and 187, indicated that further support is necessary for the ratification of other Conventions and their subsequent transposition into national legislation and implementation. The Government of *Pakistan* indicated that ILO support could be

provided to further develop the legislative and institutional framework with a view to ratifying Conventions Nos 155 and 187.

531. A number of countries indicated that they would appreciate receiving technical assistance in relation to the requirements of the instruments. In particular, several governments indicated that they would like to receive support for the development or review of OSH legislation, including the Governments of *Bosnia and Herzegovina*, *China*, *Ecuador*, *El Salvador* (including for evaluating the impact of the OSH legislation adopted in 2012), *Georgia*, *Kenya* (particularly to review the regulations in the construction sector and develop regulations in the mining and agricultural sectors), *Mali* (including the development of regulations on OSH in mining and agriculture), *Mauritius*, *Pakistan*, *Senegal*, *Sudan*, *Suriname*, *Uganda*, *United Republic of Tanzania* and *Zimbabwe*. The Government of *Cameroon* indicated that it has requested ILO support, in the framework of development cooperation, to give effect to the Conventions examined. The Governments of *Costa Rica*, *El Salvador*, *Nicaragua*, *Pakistan*, *Panama*, *Sudan*, *Togo*, *Uganda* and the *United Republic of Tanzania*, identified the need for ILO support for the development of an OSH policy, and the Governments of *Costa Rica*, *Nicaragua* and *Sudan* also referred to support for the development of a national programme.

532. Several governments reported that further capacity building for government officials on OSH issues would be useful, including the Governments of *Cameroon*, *Cambodia*, *Guatemala*, *Republic of Moldova*, *Peru*, *Seychelles*, *Sudan* (in the areas of construction, mining and agriculture), *Togo*, *Trinidad and Tobago* and the *United Republic of Tanzania*. A number of governments also indicated that assistance would be appreciated with the training of labour inspectors on OSH, including the Governments of *Burkina Faso* (particularly in the mining sector), *China*, *Ethiopia*, *Mali*, *Nicaragua*, *Oman*, *Peru*, *Qatar*, *Uganda* and *United Republic of Tanzania*.

533. The Governments of *Bangladesh*, *Pakistan* and the *United Republic of Tanzania* reported that capacity building for the social partners on OSH issues would be useful, and the Government of *Sri Lanka* indicated that technical assistance would be necessary to train OSH officers in enterprises with more than 100 workers and to establish safety committees in those enterprises in the construction, mining and agricultural sectors. The Government of *Guatemala* indicated that in the future, technical assistance could be provided by the ILO for the National OSH Council.

534. Some governments reported a need for support to raise public awareness on OSH issues, particularly the Governments of *Cambodia* and *Qatar*, while the Government of *Georgia* indicated that support would be helpful to raise awareness among employers. The Government of *China* indicated that guidance and assistance by the ILO should be strengthened to promote the ratification and implementation of the Conventions, and the Government of *Ethiopia* indicated that awareness raising on international labour standards on OSH should be strengthened. The Governments of *Mexico* and *Uzbekistan* indicated that continued and further ILO assistance on OSH would be helpful. The Governments of *South Africa* and *Viet Nam* considered that support for further research on OSH issues would be useful.

535. The Governments of *the former Yugoslav Republic of Macedonia*, *Peru*, *Philippines* and *Qatar* identified that the ILO could provide assistance concerning good practices with respect to OSH. The Government of *Peru* indicated in this respect that the ILO could support collaboration with other countries for the implementation of programmes for the sharing best practices in labour inspection on OSH.

536. Certain governments provided suggestions for future ILO publications. The Government of *Bahrain* indicated that the ILO could develop a code of practice on

psychosocial hazards and their impact on the safety and health of workers. The Government of the *Netherlands* indicated that publications should be produced on good practices, and further non-binding guidelines developed for use by the social partners and companies to contribute to the implementation of practical solutions.

537. The Governments of *Guatemala*, *Iraq*, *Mali* and *Seychelles* referred to the need for support to strengthen the system for the reporting of accidents, data collection and the analysis of information on occupational accidents and diseases. The Governments of *Nicaragua* and *Uganda* indicated that assistance for the development of OSH management systems would be helpful.

538. Certain governments identified technical assistance needs concerning specific sectors. With reference to construction, the Government of *Peru* indicated that technical assistance could be provided for the training of OSH specialists in the construction sector. In relation to the mining sector, the Government of the *Philippines* requested assistance to undertake a gap analysis of national legislation in relation to Convention No. 176, to build the capacity of the mines and geosciences bureau on OSH and to facilitate field visits to other countries to learn about best practices. The Government of *Zimbabwe* indicated that support could be provided for the implementation of programmes to promote the eradication of silicosis and tuberculosis in mines. With respect to agriculture, the Government of *Pakistan* reported that further support would be helpful in relation to OSH in the sector, including awareness raising and measures to address occupational accidents.

### Observations from employers' organizations

539. Certain employers' organizations also identified technical assistance needs or suggestions for ILO action. The Sudanese Businessmen and Employers Federation (SBEF) indicated that it would be important to foster a deeper understanding of OSH requirements in various sectors, and made several recommendations for possible technical assistance, including the publication of practical guides in Arabic on occupational safety and health, the formulation of training programmes, the holding of workshops to build capacity with ILO experts and the development and publication of guides for employers' and workers' organizations. The Chamber of Production and Industry (CPC) stressed that the Government of *Chile* could benefit from technical assistance with respect to the establishment of a national OSH profile, in collaboration with the social partners. In this regard, the CPC suggested that Government should collaborate with the ILO with a view to strengthening the tripartite fora on OSH. The Confederation of Employers of the Mexican Republic (COPARMEX) requested ILO support for capacity building of COPARMEX staff members in charge of OSH, particularly with respect to the exchange of best practices. The National Confederation of Industry (CNI) of *Brazil* indicated that it had benefited from support with respect to training, seminars and workshops, which contributed to its capacity building and knowledge of best practices from other countries.

### Observations from workers' organizations

540. Certain workers' organizations made proposals for the strengthening of the technical assistance provided by the ILO. The Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA), the National Confederation of United Independent Unions (CONUSI) of *Panama*, three unions from the *Dominican Republic* (the Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS)), the Trade Union Confederation of Workers' Commissions (CCOO) of *Spain*, and the National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM) of *Mexico* called on the ILO

to redouble its efforts to foster the impact of the supervisory system and provide technical assistance to member States.

541. The Confederation of Gabonese Free Trade Unions (CGSL) indicated that there is a need for ILO assistance for capacity building and policy development, including the elaboration and implementation of a national policy on OSH. In their joint observations, the Building and Wood Workers' International (BWI) and the Construction and Building Materials Industry Workers' Union of Ukraine (CBMI) indicated that cooperation between the ILO and the Ministry of Social Policy should continue, pursuant to ongoing projects, and that further assistance could be provided to the Government of *Ukraine* through workshops and trainings. Moreover, the ILO could publish an OSH manual focusing on Eastern European countries and the sharing of best practices. The Single Confederation of Workers (CUT) of *Colombia* suggested that policy and technical support could be provided on OSH issues.

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542. The Committee recalls that Recommendation No. 197 outlines the role of the ILO in the field of OSH, indicating that the Organization should facilitate international development cooperation. This cooperation should strengthen the capacity of member States to establish and maintain a national preventative safety and health culture and promote a management systems approach to OSH. The ILO should also facilitate the exchange of information on national policies, systems and programmes, including on good practices and innovative approaches, and on the identification of new and emerging hazards and risks in the workplace.

543. In this respect, the Committee notes the launching in 2016 of five flagship programmes for development cooperation, including the *Occupational Safety and Health Global Action for Prevention (OSH GAP) programme*. The OSH GAP aims to improve the health and safety of workers by fostering a global culture of prevention, particularly with respect to SMEs, with a focus on the construction and agriculture sectors.<sup>29</sup> With respect to facilitating the exchange of information on national policies, systems and programmes, in 2014 the ILO launched a global database on occupational safety and health legislation (LEGOSH), which collects, analyses, describes and shares essential knowledge on OSH legislation in over 120 countries.<sup>30</sup>

***544. The Committee welcomes the requests for policy support and technical assistance from governments, employers' organizations and workers' organizations as important steps towards the ratification and full implementation of Conventions Nos 167, 176, 184 and 187. These numerous requests attest to the importance attached to OSH by governments and the social partners, and the will and desire of constituents to make progress in this respect. The Committee hopes that the Office will rapidly provide the assistance requested, taking due note of the significant policy support and technical assistance that countries have reported receiving, and bearing in mind the important guidance contained in Recommendation No. 197.***

## Proposals for standards-related action

545. Certain governments and social partners indicated possible standards-related action that could be undertaken by the ILO and its members, including the possibility of

<sup>29</sup> ILO: *The ILO's global flagship programmes*, Governing Body, 325th Session, Oct.–Nov. 2015 (GB.325/POL/7).

<sup>30</sup> ILO: Global Database on Occupational Safety and Health Legislation. See <http://www.ilo.org/dyn/legosh/en/f?p=14100:1000:0::NO> [last accessed 17 Jan. 2017].

consolidating existing OSH standards, the importance of the Standards Review Mechanism (SRM) and its Tripartite Working Group, and the need to address new and emerging developments in this area.

### Comments from governments

546. With reference to the consolidation of existing standards, the Government of *Sri Lanka* emphasized that many ILO instruments have been adopted on OSH, and that a large number of standards could negatively impact progress with respect to ratification and implementation. It therefore considered that the preparation of a comprehensive OSH standard, taking into consideration all the relevant and important provisions of existing standards, with some flexibility, would be more appropriate, similarly to what has been done in the maritime sector. The Government of *Panama* underlined the necessity, and opportunity, of consolidating ILO standards on OSH, similarly to what has been done with the Maritime Labour Convention, 2006. The Governments of *Lithuania* and *Nicaragua* added that a consolidated instrument on all OSH issues would be valuable, and the Government of the *United Republic of Tanzania* indicated that a comprehensive instrument on OSH should be considered.

547. The Government of *Greece* indicated that its implementation of the OSH framework could be facilitated by the consolidation of standards on the protection of workers in all sectors, while the Government of *Netherlands* observed that, although it would prefer the development of non-binding guidelines, the consolidation of the OSH instruments would be the next best option. The Government of *Chile* indicated that, given the dynamic nature of OSH, the ILO should have the capacity to respond and adapt to new and emerging forms of work, and that this could include the consolidation of existing standards. The Government of *Poland* indicated that any possible standard-setting activity, and in particular the consolidation of standards in the area of OSH, should be preceded by detailed analyses in order to avoid the adoption of instruments that member States would not be able to ratify and implement due to their broad scope or detailed provisions. The Government of *New Zealand* noted that, in general, the review of outdated instruments and the consolidation of similar instruments could be useful in improving clarity, relevance and the likelihood of ratification.

548. With respect to the SRM, the Government of *Australia* welcomed the SRM process and considered that it could lead to the consolidation of some related OSH standards, if the SRM Tripartite Working Group (SRM TWG) decided that this was appropriate. The Government of the *Netherlands* called for the modernization of ILO instruments, taking advantage of the SRM exercise, in particular with regard to out-of-date Conventions. It expressed the view that ILO Conventions should be adapted to changing situations, and should not contain excessively detailed provisions to allow for adaptation to national needs and situations. Rather than increasing the number of Conventions, non-binding guidance should be developed.

549. With respect to the status of the Conventions examined, the Government of *Morocco* called for Convention No. 187 to be considered a fundamental Convention.

550. Certain governments considered that ILO standards-related action should address new and emerging developments in the field of OSH. The Government of *Philippines* indicated that the ILO should consider the impact of new production modes and work processes, as well as technological innovations, in the scope of an OSH standard. The Government of *Chile* indicated that, given the dynamic nature of OSH, the ILO should have the capacity to respond and adapt to new and emerging forms of work, and that this could include new standard-setting activities. The Governments of *Belgium* and *Bahrain*

called for further attention to be paid to psychosocial risks, and the Government of *Belgium* highlighted in particular the possibility of increased stress and fatigue linked to the proliferation of information technology and its intrusion into the private lives of workers.

551. Lastly, the Government of *Mexico* indicated that ILO instruments adequately cover OSH issues and that no standards-related action is necessary. The Government of *Estonia* indicated that there is no need to revise existing instruments or adopt new ones.

### Observations from employers' organizations

552. The IOE indicated that, with a view to achieving more impact, it would be desirable to consider possibilities to simplify, update and consolidate existing OSH instruments. In doing so, a global perspective should be applied, taking into account all existing OSH Conventions and Recommendations, rather than a piecemeal approach considering individual instruments. A possible future architecture of OSH instruments could consist of one high-impact ILO framework Convention on OSH, to which annexes could be added on OSH in particular high-risk sectors or on specific OSH issues. Such annexes should be strictly confined to the universally relevant specificities of the respective sectors/issues, while the framework Convention would deal with the basics of OSH. The annexes would be individually ratifiable by member States that have ratified the Convention, and would be subject to an accelerated revision procedure to enable swift updating. If need be, new annexes could be added and obsolete ones could be removed, without affecting the Convention. The IOE added that the framework Convention could be complemented by Recommendations on OSH in high-risk sectors or on specific OSH issues, which would provide guidance and could also be swiftly revised and updated. The IOE considered that a more in-depth examination could take place later in the work of the SRM TWG.

553. The IOE also provided specific observations on each of the Conventions. With respect to Convention No. 187, the IOE indicated that, on the basis of the information in this General Survey on the specific reasons impeding ratification of the important and innovative instrument, the ILO's tripartite constituents would be in a position to decide on the most appropriate standard-related action to be taken, including a review by the SRM TWG. The IOE was of the opinion that a review by the TWG should not concern Convention No. 187 and Recommendation No. 197 (and the instruments referred to in its Annex) in isolation, but should ideally apply a holistic approach covering all ILO instruments in the field of OSH to ensure the relevance, coherence and clarity of the ILO's body of standards in this important field. The observations provided by the International Organisation of Employers (IOE) highlighted the number of flexibility clauses contained in the Convention,<sup>31</sup> which allow ratifying States a significant level of discretion in its implementation and make it possible for national measures to be tailored to specific needs. The IOE added that the Convention had enjoyed tripartite support at the time of its adoption and could reinforce the elaboration of appropriate national-level responses.

554. With respect to Convention No. 167, the IOE stated that, in light of the considerable technological advances since the adoption of the Convention, which also impacted the way OSH is managed in the construction industry, member States and the social partners might wish to review whether its provisions are appropriate and up to date.

555. With reference to Convention No. 176, the IOE recalled that the Convention is considered to be up to date, but that it has not yet been reviewed by the ILC or the Governing Body with regard to its ongoing relevance to today's mining industry.

<sup>31</sup> The IOE highlighted in this respect Articles 2(3), 3(3) and 4(2) and (3) of Convention No. 187.

Accordingly, bearing in mind the new realities of the mining industry, member States and the social partners might wish to review the extent to which the Convention, and Recommendation No. 183, are still appropriate and relevant.

556. In relation to Convention No. 184, the IOE observed that the Convention is not designed for all kinds of agricultural economic units, and that the full implementation of the Convention could seriously affect the competitiveness and viability of medium, small and family farms. The IOE also highlighted that the Convention does not recognize that agriculture is driven by the weather, and that the concept of working time arrangements is injurious to production in agriculture because hours of work are dictated by weather conditions and seasons, which means that a systematic control of hours of work is not always viable. These problems, as well as the inclusion of such issues as ergonomics, the special treatment of women workers and compulsory insurance, undermine the fragile economics of agriculture. The IOE indicated that, in light of these issues, the low ratification rate of the Convention and the time that had passed since its adoption, without a thorough review of its relevance by the ILO, member States and the social partners might wish to consider whether the detailed provisions of Convention No. 184 and Recommendation No. 192 are appropriate and relevant to the realities of the agricultural sector. The IOE stated that the SRM appears to be an appropriate forum for such a review.

557. The IOE further suggested that a possible measure to generate more and relevant information concerning the application of Conventions Nos 167, 176, 184 and 187 in law and practice could be to follow a global and thematic approach in the supervision of OSH standards, placing more emphasis in simplifying and consolidating the report forms used for regular supervision, for example by the subjects covered by international labour standards. It encouraged the Governing Body to look into and discuss this possibility without further delay.

558. In addition, the Confederation of Finnish Industries (EK) and the Confederation of German Employers' Associations (BDA) indicated that there is no need for additional standards.

### Observations from workers' organizations

559. A number of workers' organizations indicated that they are opposed to the consolidation of the ILO's OSH instruments. The Argentine Building Workers Union (UOCRA) and the General Confederation of Labour of the Argentine Republic (CGT RA), the National Confederation of United Independent Unions (CONUSI) of *Panama*, three unions from the *Dominican Republic* (the Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS)), the Trade Union Confederation of Workers' Commissions (CCOO) of *Spain* and the National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM), highlighted that ILO standards on safety and health at work have supported workers in promoting improvements in law and practice at the national level. These organizations underlined that, while these standards often contain very specific provisions, they also provide considerable flexibility, making it possible to take into account national circumstances. A consolidation of the standards is not advisable, as it could result in more abstract and diluted provisions, making it difficult to provide the same level of protection for workers. The CASC, CNTD and CNUS of the *Dominican Republic*, and the CCOO of *Spain* also proposed a ratification campaign for the OSH instruments in construction, mining and agriculture.



560. A number of workers' organizations also made proposals for OSH issues that could be examined with a view to standard setting. The Argentine Building Workers Union (UOCRA) proposed that the maximum weight for the manual transport of loads could be the subject of future standards-related activity. The General Union of Workers (UGT) of *Spain* indicated that a possible standard could be considered on subcontracting in different sectors of economic activity. The union also proposed standards-related action addressing psychosocial risks and occupational diseases. The Single Confederation of Workers (CUT) of *Colombia* made several recommendations related to possible subjects for standard setting, including instruments on OSH and teleworking, OSH for domestic workers, OSH relating to work with new communication technologies, OSH for those performing work involving nanotechnology, as well as instruments on OSH research.

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561. *The Committee notes the comments made by many governments and social partners regarding possible future standards-related action, including the support and opposition expressed in relation to the consolidation of the OSH instruments. In this regard, it is mindful of the opportunity provided by the SRM Tripartite Working Group's future examination of the occupational safety and health instruments.*

562. *In particular, the Committee notes that Conventions Nos 167 and 176 are included in the initial programme of work of the SRM TWG (set of instruments No. 6 on OSH) and will accordingly be examined by the SRM TWG at a date to be determined.<sup>32</sup> At that time, Conventions Nos 184 and 187 will be an important part of the broader body of standards to be taken into account as the context for the TWG's review. The Committee hopes that the consideration of these instruments in the present General Survey will provide a useful contribution to the future work of the SRM TWG.*

563. *Lastly, taking note of the suggestions concerning a possible standard on psychosocial risks, the Committee is mindful, in particular, of the decision of the Governing Body to place a standard-setting item on "Violence against women and men in the world of work" on the agenda of the 107th Session (June 2018) of the Conference.<sup>33</sup>*

<sup>32</sup> ILO: *The Standards Initiative: Report of the first meeting of the Standards Review Mechanism Tripartite Working Group: Report of the Officers, in accordance with paragraph 17 of the terms of reference of the Standards Review Mechanism Tripartite Working Group*, Governing Body, 326th Session, Mar. 2016, GB.326/LILS/3/2.

<sup>33</sup> ILO: *Minutes of the 325th Session of the Governing Body of the International Labour Office*, Governing Body, 325th Session, Geneva, Oct.–Nov. 2015, GB.325/PV.



## The way forward and concluding remarks: Building on common commitments

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### Common commitments concerning OSH

564. The Committee observes a number of important common commitments shared by the tripartite constituents on the topics covered by the present General Survey in relation to Conventions Nos 167, 176 184 and 187 and Recommendations Nos 175, 183, 192 and 197.

565. Firstly, the Committee notes that the reports provided by member States and the social partners illustrate an almost universal recognition of the importance of ensuring safe and secure conditions at work, in general, and in the construction, mining and agriculture sectors in particular. All member States reported measures taken in law or practice to promote OSH and protect workers from occupational accidents and diseases, and many reported on recent measures to reinvigorate and intensify efforts in this regard. While a number of ratifications have been registered in recent years, the Committee notes that many governments that have not ratified the relevant Conventions reported that their legislation and practice reflect the spirit of the Conventions.

566. From this common commitment flows a broad recognition of the importance of the OSH instruments concerned, and particularly, as emphasized by numerous reports, Convention No. 187. Several workers' organizations indicated that ratification of Convention No. 187 by their country is desirable, the IOE described the Convention as important and innovative, and a number of governments reported that they are currently taking concrete steps towards ratification in light of its importance.

567. Nonetheless, many constituents have acknowledged that much more needs to be done to address major challenges remaining. Numerous reports emphasized that work in the construction, mining and agriculture sectors continues to be quite hazardous. Many reports also highlighted the huge economic costs of inadequate occupational safety and health at both the national and enterprise level, and the negative impact of poor OSH conditions on productivity. An examination of ILO estimates on occupational accidents and diseases reveals that, between 2002 and 2016, the number of work-related deaths has not decreased. In the last 15 years, little measurable progress has been made to address the fact that an estimated 2.3 million workers die every year from occupational accidents and work-related diseases, in addition to the many millions of workers who suffer non-fatal injuries and illnesses.<sup>1</sup> It therefore appears to be difficult to translate the commitment

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<sup>1</sup> Despite the acknowledged difficulties with global estimates (in light of under-reporting, a lack of globally harmonized data collection systems and unreliable information from many developing countries), the available information certainly does not suggest an improvement. A 2002 ILO report estimated that there were approximately 2 million work-related deaths annually, and that the number of estimated annual deaths among workers had clearly increased since 1990, due to, inter alia, an increase in the number of cases of work-related cancer and circulatory diseases. Since then, this figure has not declined, with the most recent figures indicating that globally, an estimated 2.3 million workers die every year from occupational accidents and work-related diseases. In addition, many

expressed into concrete OSH improvements. *In this context, the Committee is mindful that the objective of the instruments is to provide a framework for member States to address the challenges of safety and health in the workplace and to achieve progressive improvement in this respect. While the instruments could provide the blueprint, full tripartite commitment is required for this progressive improvement to be achieved.*

568. Moreover, the Committee notes the challenges identified by many countries concerning OSH compliance. It recalls in this respect that enforcement efforts are fully complementary to the preventative approach to OSH. *Efforts should continue to be made to enhance the capacity of the competent authorities, including labour inspectors and other public officials, to implement and enforce the relevant OSH legislation.*

569. The Committee recalls that social dialogue is at the heart of the eight instruments examined in this General Survey and a central prerequisite for successful OSH action at both the national and enterprise levels. Special importance is attributed to social dialogue in the three sectoral Conventions in light of the specialized nature of these sectors and their distinctive occupational safety and health risks. The social partners are best placed to recognize OSH challenges and the causes of occupational accidents and diseases, and to devise solutions to improve safety and health at the workplace that are adapted to the specific situation in their countries. *Recognizing the pivotal role of the social partners in ensuring the progressive improvement of OSH, the Committee emphasizes that employers' organizations and workers' organizations should be enabled to fulfil their role pursuant to the instruments.*

570. The Committee notes the repeated emphasis of constituents on the importance of prevention, a foundational principle of the OSH instruments under examination. From the prioritization of preventions flows the need for a dynamic approach to address new and emerging OSH risks. Numerous reports highlighted the importance, and challenges of addressing OSH risks in the context of rapidly changing workplaces. *In this respect, the Committee considers that the key OSH Conventions, Conventions Nos 155 and 187, which place emphasis on progressive improvement and continuous review, provide a flexible and useful tool to address emerging risks and proactively meet the OSH challenges of a changing world of work.*

571. Society as a whole has an important role to play in achieving progressive improvements in OSH. The numerous initiatives currently being implemented to promote OSH awareness around the world are testament to the fact that a national preventative safety and health culture requires broad societal participation. *In this respect, the Committee emphasizes the importance of both public and workplace awareness raising and education on OSH issues as a key component of the promotion of OSH.*

## Concluding remarks

572. The Committee welcomes the choice by the Governing Body of Conventions Nos 167, 176, 184 and 187 and Recommendations Nos 175, 183, 192 and 197 as the subject of a General Survey, which has allowed the Committee the opportunity to address in detail OSH issues impacting hundreds of millions of workers around the world. The Committee hopes that its first General Survey examining these instruments will contribute to a greater understanding of their scope and potential, and clarify certain misunderstandings about their contents. Moreover, the decision by the Governing Body

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millions of workers suffer non-fatal injuries and illnesses. ILO: *Decent Work – Safe Work* (Geneva), Introductory report to the XVIth World Congress on Safety and Health at Work, Vienna, 26–31 May 2002; and ILO: *Safety and health at work: A vision for sustainable prevention* (Geneva, 2014).

that the Survey should take into account the Committee's conclusions of its previous General Survey on occupational safety and health of 2009 concerning Convention No. 155 and its Protocol of 2002, as well as the related discussion and conclusions of the Committee on the Application of Standards of the International Labour Conference, has offered an opportunity to fully explore the complementarity of Conventions Nos 155 and 187. The Committee further acknowledges the high response rate to the detailed questionnaire and encourages countries to continue to engage in this exercise.

573. The promotion of OSH and the prevention of accidents and diseases at work is a core element of the ILO's founding mission and of the Decent Work Agenda. Moreover, the 2030 Agenda for Sustainable Development shines a light on OSH, and ILO instruments will be a key tool for countries wishing to make progress over the next 15 years towards the achievement of SDG target 8.8 in promoting safe and secure working environments for all workers. The collection, evaluation and dissemination of statistical data on OSH will be indispensable for both measuring and achieving progress.

574. The Committee recognizes that the ILO is in the process of reinforcing its development assistance and development cooperation capacities with respect to OSH through the recent launching of the flagship programme Occupational Safety and Health Global Action for Prevention (OSH GAP). Many governments reported on assistance that has been received, and the numerous needs identified for future development cooperation bear witness to the desire of constituents to improve OSH outcomes concretely. ***The Committee encourages the Office to pursue its efforts to strengthen technical assistance and cooperation activities on OSH. The Committee also recalls and emphasizes that ratification of OSH Conventions can be accompanied by the provision of technical assistance for supporting their full implementation.***

575. With respect to Conventions Nos 167, 176 and 184, the Committee acknowledges the low rates of ratification of these instruments and observes that challenges persist in the implementation of certain of their provisions. Noting the ongoing OSH challenges in the construction, mining and agricultural sectors, the Committee considers that the objectives and principles of these instruments – prevention, protection and dialogue to achieve progressive improvement – remain important today in addressing the difficulties in these sectors. In the light of these principles, an economic crisis does not provide a valid reason for the non-fulfilment of governments' obligations under the Conventions or the lowering of the level of protection already provided for in OSH legislation. Furthermore, the promotion of a safe and secure working environment for all workers could foster foreign investments and it is a condition for sustainable development.

576. With respect to Convention No. 187, the Committee recognizes the broad support expressed for this instrument and its important potential, along with Convention No. 155, in responding in a flexible and adapted manner to many of the current OSH challenges. Nonetheless, the Committee appreciates that the full potential of Convention No. 187 may not yet have been fully achieved, particularly in light of the widespread tripartite endorsement that the Convention received upon its adoption a decade ago.

577. In terms of future standard setting, the Committee is mindful of a divergence of opinion in relation to the desirability of consolidating the OSH standards. ***In this context, the Committee hopes that this General Survey will provide a useful contribution to the future examination by the Standards Review Mechanism Tripartite Working Group of the OSH instruments included in its initial programme of work, which may be an appropriate forum for the consideration of such matters as it undertakes its review to ensure that the instruments are up to date and relevant to the world of work.***

578. The Committee recalls that in its last General Survey on occupational safety and health it called for the promotion of Convention No. 155, its Protocol of 2002 and Convention No. 187. The Conference Committee on the Application of Standards, in its discussion of that General Survey in 2009, subsequently called on the Office to develop a strategy for the promotion and the effective implementation of these instruments.

579. The Committee also recalls that Convention No. 155, its Protocol of 2002 and Convention No. 187 were identified by the Governing Body in 2010 as the *key OSH instruments*, the promotion and implementation of which should be supported. This led to the development and adoption by the Governing Body of a Plan of Action (2010–16) to achieve the widespread ratification and effective implementation of these key OSH instruments. The Committee notes that, as the implementation of the Plan of Action draws to a close, an examination could be undertaken of the next steps needed with respect to these instruments.

***580. The Committee emphasizes the particular importance of occupational safety and health measures in high risk sectors, which deserve increased attention. In addition, given the ongoing OSH challenges globally, the Committee firmly believes that Convention No. 187, with its focus on social dialogue, has great potential to contribute to the effective promotion of occupational safety and health. It considers Convention No. 155 and No. 187 to be fully complementary, together constituting an important blueprint for progressive and sustained improvements towards the provision of safe and secure working environments. The Committee looks forward to an examination by the ILO's tripartite constituents of the steps that could be taken to promote Conventions Nos 155 and 187 and to enable these instruments to achieve their full potential.***

# Appendix I

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## Texts of the examined instruments

### Convention No. 187

#### Convention concerning the Promotional Framework for Occupational Safety and Health

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Ninety-fifth Session on 31 May 2006,  
Recognizing the global magnitude of occupational injuries, diseases and deaths, and the need for  
further action to reduce them, and  
Recalling that the protection of workers against sickness, disease and injury arising out of  
employment is among the objectives of the International Labour Organization as set out in  
its Constitution, and  
Recognizing that occupational injuries, diseases and deaths have a negative effect on productivity  
and on economic and social development, and  
Noting paragraph III(g) of the Declaration of Philadelphia, which provides that the International  
Labour Organization has the solemn obligation to further among the nations of the world  
programmes which will achieve adequate protection for the life and health of workers in all  
occupations, and  
Mindful of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up,  
1998, and  
Noting the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety  
and Health Recommendation, 1981 (No. 164), and other instruments of the International  
Labour Organization relevant to the promotional framework for occupational safety and  
health, and  
Recalling that the promotion of occupational safety and health is part of the International Labour  
Organization's agenda of decent work for all, and  
Recalling the Conclusions concerning ILO standards-related activities in the area of occupational  
safety and health – a global strategy, adopted by the International Labour Conference at its  
91st Session (2003), in particular relating to ensuring that priority be given to occupational  
safety and health in national agendas, and  
Stressing the importance of the continuous promotion of a national preventative safety and health  
culture, and  
Having decided upon the adoption of certain proposals with regard to occupational safety and  
health, 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 fifteenth day of June of the year two thousand and six the following Convention, which may be cited as the Promotional Framework for Occupational Safety and Health Convention, 2006.

## I. DEFINITIONS

### *Article 1*

For the purpose of this Convention:

- (a) the term “national policy” refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);
- (b) the term “national system for occupational safety and health” or “national system” refers to the infrastructure which provides the main framework for implementing the national policy and national programmes on occupational safety and health;
- (c) the term “national programme on occupational safety and health” or “national programme” refers to any national programme that includes objectives to be achieved in a predetermined time frame, priorities and means of action formulated to improve occupational safety and health, and means to assess progress;
- (d) the term “a national preventative safety and health culture” refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

## II. OBJECTIVE

### *Article 2*

1. Each Member which ratifies this Convention shall promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme.

2. Each Member shall take active steps towards achieving progressively a safe and healthy working environment through a national system and national programmes on occupational safety and health by taking into account the principles set out in instruments of the International Labour Organization (ILO) relevant to the promotional framework for occupational safety and health.

3. Each Member, in consultation with the most representative organizations of employers and workers, shall periodically consider what measures could be taken to ratify relevant occupational safety and health Conventions of the ILO.

## III. NATIONAL POLICY

### *Article 3*

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.

2. Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

3. In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.



#### IV. NATIONAL SYSTEM

##### *Article 4*

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.

2. The national system for occupational safety and health shall include among others:

- (a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;
- (b) an authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;
- (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and
- (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.

3. The national system for occupational safety and health shall include, where appropriate:

- (a) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;
- (b) information and advisory services on occupational safety and health;
- (c) the provision of occupational safety and health training;
- (d) occupational health services in accordance with national law and practice;
- (e) research on occupational safety and health;
- (f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;
- (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
- (h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

#### V. NATIONAL PROGRAMME

##### *Article 5*

1. Each Member shall formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health in consultation with the most representative organizations of employers and workers.

2. The national programme shall:

- (a) promote the development of a national preventative safety and health culture;
- (b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;
- (c) be formulated and reviewed on the basis of analysis of the national situation regarding occupational safety and health, including analysis of the national system for occupational safety and health;

- (d) include objectives, targets and indicators of progress; and
  - (e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.
3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

## VI. FINAL PROVISIONS

### *Article 6*

This Convention does not revise any international labour Conventions or Recommendations.

### *Article 7*

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

### *Article 8*

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

### *Article 9*

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 within the first year of each new period of ten years under the terms provided for in this Article.

### *Article 10*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

### *Article 11*

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 denunciations that have been registered.

*Article 12*

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.

*Article 13*

1. Should the Conference adopt a new Convention revising this Convention, 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 9 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 14*

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

## Recommendation No. 197

### Recommendation concerning the Promotional Framework for Occupational Safety and Health

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Ninety-fifth Session on 31 May 2006,

Having decided upon the adoption of certain proposals with regard to occupational safety and  
health, 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 Promotional Framework for Occupational Safety and Health Convention, 2006  
(hereinafter referred to as “the Convention”);

adopts this fifteenth day of June of the year two thousand and six the following Recommendation,  
which may be cited as the Promotional Framework for Occupational Safety and Health  
Recommendation, 2006.

#### I. NATIONAL POLICY

1. The national policy formulated under Article 3 of the Convention should take into  
account Part II of the Occupational Safety and Health Convention, 1981 (No. 155), as well as the  
relevant rights, duties and responsibilities of workers, employers and governments in that  
Convention.

#### II. NATIONAL SYSTEM

2. In establishing, maintaining, progressively developing and periodically reviewing the  
national system for occupational safety and health defined in Article 1(b) of the Convention,  
Members:

- (a) should take into account the instruments of the International Labour Organization (ILO)  
relevant to the promotional framework for occupational safety and health listed in the Annex  
to this Recommendation, in particular the Occupational Safety and Health Convention, 1981  
(No. 155), the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection  
(Agriculture) Convention, 1969 (No. 129); and
- (b) may extend the consultations provided for in Article 4(1) of the Convention to other  
interested parties.

3. With a view to preventing occupational injuries, diseases and deaths, the national system  
should provide appropriate measures for the protection of all workers, in particular, workers in  
high-risk sectors, and vulnerable workers such as those in the informal economy and migrant and  
young workers.

4. Members should take measures to protect the safety and health of workers of both  
genders, including the protection of their reproductive health.

5. In promoting a national preventative safety and health culture as defined in Article 1(d)  
of the Convention, Members should seek:

- (a) to raise workplace and public awareness on occupational safety and health through national  
campaigns linked with, where appropriate, workplace and international initiatives;
- (b) to promote mechanisms for delivery of occupational safety and health education and training,  
in particular for management, supervisors, workers and their representatives and government  
officials responsible for safety and health;
- (c) to introduce occupational safety and health concepts and, where appropriate, competencies,  
in educational and vocational training programmes;

- (d) to facilitate the exchange of occupational safety and health statistics and data among relevant authorities, employers, workers and their representatives;
- (e) to provide information and advice to employers and workers and their respective organizations and to promote or facilitate cooperation among them with a view to eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks;
- (f) to promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers' occupational safety and health representatives, in accordance with national law and practice; and
- (g) to address the constraints of micro-enterprises and small and medium-sized enterprises and contractors in the implementation of occupational safety and health policies and regulations, in accordance with national law and practice.

6. Members should promote a management systems approach to occupational safety and health, such as the approach set out in the Guidelines on occupational safety and health management systems (ILO-OSH 2001).

### III. NATIONAL PROGRAMME

7. The national programme on occupational safety and health as defined in Article 1(c) of the Convention should be based on principles of assessment and management of hazards and risks, in particular at the workplace level.

8. The national programme should identify priorities for action, which should be periodically reviewed and updated.

9. In formulating and reviewing the national programme, Members may extend the consultations provided for in Article 5(1) of the Convention to other interested parties.

10. With a view to giving effect to the provisions of Article 5 of the Convention, the national programme should actively promote workplace prevention measures and activities that include the participation of employers, workers and their representatives.

11. The national programme on occupational safety and health should be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.

12. In formulating and reviewing the national programme, Members should take into account the instruments of the ILO relevant to the promotional framework for occupational safety and health, listed in the Annex to this Recommendation, without prejudice to their obligations under Conventions that they have ratified.

### IV. NATIONAL PROFILE

13. Members should prepare and regularly update a national profile which summarizes the existing situation on occupational safety and health and the progress made towards achieving a safe and healthy working environment. The profile should be used as a basis for formulating and reviewing the national programme.

14. (1) The national profile on occupational safety and health should include information on the following elements, as applicable:

- (a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;
- (b) the authority or body, or the authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;
- (c) the mechanisms for ensuring compliance with national laws and regulations, including the systems of inspection;

- (d) the arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures;
- (e) the national tripartite advisory body, or bodies, addressing occupational safety and health issues;
- (f) the information and advisory services on occupational safety and health;
- (g) the provision of occupational safety and health training;
- (h) the occupational health services in accordance with national law and practice;
- (i) research on occupational safety and health;
- (j) the mechanism for the collection and analysis of data on occupational injuries and diseases and their causes, taking into account relevant ILO instruments;
- (k) the provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
- (l) the support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

(2) In addition, the national profile on occupational safety and health should include information on the following elements, where appropriate:

- (a) coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;
- (b) technical standards, codes of practice and guidelines on occupational safety and health;
- (c) educational and awareness-raising arrangements, including promotional initiatives;
- (d) specialized technical, medical and scientific institutions with linkages to various aspects of occupational safety and health, including research institutes and laboratories concerned with occupational safety and health;
- (e) personnel engaged in the area of occupational safety and health, such as inspectors, safety and health officers, and occupational physicians and hygienists;
- (f) occupational injury and disease statistics;
- (g) occupational safety and health policies and programmes of organizations of employers and workers;
- (h) regular or ongoing activities related to occupational safety and health, including international collaboration;
- (i) financial and budgetary resources with regard to occupational safety and health; and
- (j) data addressing demography, literacy, economy and employment, as available, as well as any other relevant information.

## V. INTERNATIONAL COOPERATION AND EXCHANGE OF INFORMATION

15. The International Labour Organization should:

- (a) facilitate international technical cooperation on occupational safety and health with a view to assisting countries, particularly developing countries, for the following purposes:
  - (i) to strengthen their capacity for the establishment and maintenance of a national preventative safety and health culture;
  - (ii) to promote a management systems approach to occupational safety and health; and

- (iii) to promote the ratification, in the case of Conventions, and implementation of instruments of the ILO relevant to the promotional framework for occupational safety and health, listed in the Annex to this Recommendation;
- (b) facilitate the exchange of information on national policies within the meaning of Article 1(a) of the Convention, on national systems and programmes on occupational safety and health, including on good practices and innovative approaches, and on the identification of new and emerging hazards and risks in the workplace; and
- (c) provide information on progress made towards achieving a safe and healthy working environment.

## VI. UPDATING OF THE ANNEX

16. The Annex to this Recommendation should be reviewed and updated by the Governing Body of the International Labour Office. Any revised annex so established shall be adopted by the Governing Body and shall replace the preceding annex after having been communicated to the Members of the International Labour Organization.

## ANNEX

### INSTRUMENTS OF THE INTERNATIONAL LABOUR ORGANIZATION RELEVANT TO THE PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

#### I. CONVENTIONS

Labour Inspection Convention, 1947 (No. 81)  
 Radiation Protection Convention, 1960 (No. 115)  
 Hygiene (Commerce and Offices) Convention, 1964 (No. 120)  
 Employment Injury Benefits Convention, 1964 (No. 121)  
 Labour Inspection (Agriculture) Convention, 1969 (No. 129)  
 Occupational Cancer Convention, 1974 (No. 139)  
 Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)  
 Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)  
 Occupational Safety and Health Convention, 1981 (No. 155)  
 Occupational Health Services Convention, 1985 (No. 161)  
 Asbestos Convention, 1986 (No. 162)  
 Safety and Health in Construction Convention, 1988 (No. 167)  
 Chemicals Convention, 1990 (No. 170)  
 Prevention of Major Industrial Accidents Convention, 1993 (No. 174)  
 Safety and Health in Mines Convention, 1995 (No. 176)  
 Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)  
 Safety and Health in Agriculture Convention, 2001 (No. 184)  
 Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

## II. RECOMMENDATIONS

- Labour Inspection Recommendation, 1947 (No. 81)
- Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
- Protection of Workers' Health Recommendation, 1953 (No. 97)
- Welfare Facilities Recommendation, 1956 (No. 102)
- Radiation Protection Recommendation, 1960 (No. 114)
- Workers' Housing Recommendation, 1961 (No. 115)
- Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)
- Employment Injury Benefits Recommendation, 1964 (No. 121)
- Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
- Occupational Cancer Recommendation, 1974 (No. 147)
- Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)
- Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)
- Occupational Safety and Health Recommendation, 1981 (No. 164)
- Occupational Health Services Recommendation, 1985 (No. 171)
- Asbestos Recommendation, 1986 (No. 172)
- Safety and Health in Construction Recommendation, 1988 (No. 175)
- Chemicals Recommendation, 1990 (No. 177)
- Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)
- Safety and Health in Mines Recommendation, 1995 (No. 183)
- Safety and Health in Agriculture Recommendation, 2001 (No. 192)
- List of Occupational Diseases Recommendation, 2002 (No. 194)



## Convention No. 167

### Convention concerning Safety and Health in Construction \*

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 Seventy-fifth Session on 1 June 1988, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Safety Provisions (Building) Convention and Recommendation, 1937, the Co-operation in Accident Prevention (Building) Recommendation, 1937, the Radiation Protection Convention and Recommendation, 1960, the Guarding of Machinery Convention and Recommendation, 1963, the Maximum Weight Convention and Recommendation, 1967, the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, the Asbestos Convention and Recommendation, 1986, and the list of occupational diseases as revised in 1980 appended to the Employment Injury Benefits Convention, 1964, and

Having decided upon the adoption of certain proposals with regard to safety and health in construction, 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 revising the Safety Provisions (Building) Convention, 1937,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-eight the following Convention, which may be cited as the Safety and Health in Construction Convention, 1988:

#### I. SCOPE AND DEFINITIONS

##### *Article 1*

1. This Convention applies to all construction activities, namely building, civil engineering, and erection and dismantling work, including any process, operation or transport on a construction site, from the preparation of the site to the completion of the project.

2. A Member ratifying this Convention may, after consultation with the most representative organisations of employers and workers concerned, where they exist, exclude from the application of the Convention, or certain provisions thereof, particular branches of economic activity or particular undertakings in respect of which special problems of a substantial nature arise, on condition that a safe and healthy working environment is maintained.

3. This Convention also applies to such self-employed persons as may be specified by national laws or regulations.

##### *Article 2*

For the purpose of this Convention:

(a) The term “construction” covers:

- (i) building, including excavation and the construction, structural alteration, renovation, repair, maintenance (including cleaning and painting) and demolition of all types of buildings or structures;
- (ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland

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\* Ed.: This Convention came into force on 11 January 1991.

- waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies;
- (iii) the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;
- (b) the term “construction site” means any site at which any of the processes or operations described in subparagraph (a) above are carried on;
- (c) the term “workplace” means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in subparagraph (e) below;
- (d) the term “worker” means any person engaged in construction;
- (e) the term “employer” means:
- (i) any physical or legal person who employs one or more workers on a construction site; and
- (ii) as the context requires, the principal contractor, the contractor or the subcontractor;
- (f) the term “competent person” means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them;
- (g) the term “scaffold” means any temporary structure, fixed, suspended or mobile, and its supporting components which is used for supporting workers and materials or to gain access to any such structure, and which is not a “lifting appliance” as defined in subparagraph (h) below;
- (h) the term “lifting appliance” means any stationary or mobile appliance used for raising or lowering persons or loads;
- (i) the term “lifting gear” means any gear or tackle by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load.

## II. GENERAL PROVISIONS

### *Article 3*

The most representative organisations of employers and workers concerned shall be consulted on the measures to be taken to give effect to the provisions of this Convention.

### *Article 4*

Each Member which ratifies this Convention undertakes that it will, on the basis of an assessment of the safety and health hazards involved, adopt and maintain in force laws or regulations which ensure the application of the provisions of the Convention.

### *Article 5*

1. The laws and regulations adopted in pursuance of Article 4 above may provide for their practical application through technical standards or codes of practice, or by other appropriate methods consistent with national conditions and practice.

2. In giving effect to Article 4 above and to paragraph 1 of this Article, each Member shall have due regard to the relevant standards adopted by recognised international organisations in the field of standardisation.

*Article 6*

Measures shall be taken to ensure that there is co-operation between employers and workers, in accordance with arrangements to be defined by national laws or regulations, in order to promote safety and health at construction sites.

*Article 7*

National laws or regulations shall require that employers and self-employed persons have a duty to comply with the prescribed safety and health measures at the workplace.

*Article 8*

1. Whenever two or more employers undertake activities simultaneously at one construction site –

- (a) the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, shall be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations, for ensuring compliance with such measures;
- (b) in so far as is compatible with national laws and regulations, where the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, is not present at the site, he shall nominate a competent person or body at the site with the authority and means necessary to ensure on his behalf co-ordination and compliance with the measures, as foreseen in subparagraph (a) above;
- (c) each employer shall remain responsible for the application of the prescribed measures in respect of the workers placed under his authority.

2. Whenever employers or self-employed persons undertake activities simultaneously at one construction site they shall have the duty to co-operate in the application of the prescribed safety and health measures, as may be specified by national laws or regulations.

*Article 9*

Those concerned with the design and planning of a construction project shall take into account the safety and health of the construction workers in accordance with national laws, regulations and practice.

*Article 10*

National laws or regulations shall provide that workers shall have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

*Article 11*

National laws or regulations shall provide that workers shall have the duty to –

- (a) co-operate as closely as possible with their employer in the application of the prescribed safety and health measures;
- (b) take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work;
- (c) use facilities placed at their disposal and not misuse anything provided for their own protection or the protection of others;
- (d) report forthwith to their immediate supervisor, and to the workers' safety representative where one exists, any situation which they believe could present a risk, and which they cannot properly deal with themselves;

- (e) comply with the prescribed safety and health measures.

#### *Article 12*

1. National laws or regulations shall provide that a worker shall have the right to remove himself from danger when he has good reason to believe that there is an imminent and serious danger to his safety or health, and the duty so to inform his supervisor immediately.
2. Where there is an imminent danger to the safety of workers the employer shall take immediate steps to stop the operation and evacuate workers as appropriate.

### III. PREVENTIVE AND PROTECTIVE MEASURES

#### *Article 13*

##### SAFETY OF WORKPLACES

1. All appropriate precautions shall be taken to ensure that all workplaces are safe and without risk of injury to the safety and health of workers.
2. Safe means of access to and egress from all workplaces shall be provided and maintained, and indicated where appropriate.
3. All appropriate precautions shall be taken to protect persons present at or in the vicinity of a construction site from all risks which may arise from such site.

#### *Article 14*

##### SCAFFOLDS AND LADDERS

1. Where work cannot safely be done on or from the ground or from part of a building or other permanent structure, a safe and suitable scaffold shall be provided and maintained, or other equally safe and suitable provision shall be made.
2. In the absence of alternative safe means of access to elevated working places, suitable and sound ladders shall be provided. They shall be properly secured against inadvertent movement.
3. All scaffolds and ladders shall be constructed and used in accordance with national laws and regulations.
4. Scaffolds shall be inspected by a competent person in such cases and at such times as shall be prescribed by national laws or regulations.

#### *Article 15*

##### LIFTING APPLIANCES AND GEAR

1. Every lifting appliance and item of lifting gear, including their constituent elements, attachments, anchorages and supports, shall –
  - (a) be of good design and construction, sound material and adequate strength for the purpose for which they are used;
  - (b) be properly installed and used;
  - (c) be maintained in good working order;
  - (d) be examined and tested by a competent person at such times and in such cases as shall be prescribed by national laws or regulations; the results of these examinations and tests shall be recorded;
  - (e) be operated by workers who have received appropriate training in accordance with national laws and regulations.

2. No person shall be raised, lowered or carried by a lifting appliance unless it is constructed, installed and used for that purpose in accordance with national laws and regulations, except in an emergency situation in which serious personal injury or fatality may occur, and for which the lifting appliance can be safely used.

### *Article 16*

#### TRANSPORT, EARTH-MOVING AND MATERIALS-HANDLING EQUIPMENT

1. All vehicles and earth-moving or materials-handling equipment shall –
  - (a) be of good design and construction taking into account as far as possible ergonomic principles;
  - (b) be maintained in good working order;
  - (c) be properly used;
  - (d) be operated by workers who have received appropriate training in accordance with national laws and regulations.
2. On all construction sites on which vehicles, earth-moving or materials-handling equipment are used –
  - (a) safe and suitable access ways shall be provided for them; and
  - (b) traffic shall be so organised and controlled as to secure their safe operation.

### *Article 17*

#### PLANT, MACHINERY, EQUIPMENT AND HAND TOOLS

1. Plant, machinery and equipment, including hand tools, both manual and power driven, shall –
  - (a) be of good design and construction, taking into account as far as possible ergonomic principles;
  - (b) be maintained in good working order;
  - (c) be used only for work for which they have been designed unless a use outside the initial design purposes has been assessed by a competent person who has concluded that such use is safe;
  - (d) be operated by workers who have received appropriate training.
2. Adequate instructions for safe use shall be provided where appropriate by the manufacturer or the employer, in a form understood by the users.
3. Pressure plant and equipment shall be examined and tested by a competent person in cases and at times prescribed by national laws or regulations.

### *Article 18*

#### WORK AT HEIGHTS INCLUDING ROOFWORK

1. Where necessary to guard against danger, or where the height of a structure or its slope exceeds that prescribed by national laws or regulations, preventive measures shall be taken against the fall of workers and tools or other objects or materials.
2. Where workers are required to work on or near roofs or other places covered with fragile material, through which they are liable to fall, preventive measures shall be taken against their inadvertently stepping on or falling through the fragile material.

### *Article 19*

#### EXCAVATIONS, SHAFTS, EARTHWORKS, UNDERGROUND WORKS AND TUNNELS

Adequate precautions shall be taken in any excavation, shaft, earthworks, underground works or tunnel –

- (a) by suitable shoring or otherwise to guard against danger to workers from a fall or dislodgement of earth, rock or other material;
- (b) to guard against dangers arising from the fall of persons, materials or objects or the inrush of water into the excavation, shaft, earthworks, underground works or tunnel;
- (c) to secure adequate ventilation at every workplace so as to maintain an atmosphere fit for respiration and to limit any fumes, gases, vapours, dust or other impurities to levels which are not dangerous or injurious to health and are within limits laid down by national laws or regulations;
- (d) to enable the workers to reach safety in the event of fire, or an inrush of water or material;
- (e) to avoid risk to workers arising from possible underground dangers such as the circulation of fluids or the presence of pockets of gas, by undertaking appropriate investigations to locate them.

### *Article 20*

#### COFFERDAMS AND CAISSONS

1. Every cofferdam and caisson shall be –
  - (a) of good construction and suitable and sound material and of adequate strength;
  - (b) provided with adequate means for workers to reach safety in the event of an inrush of water or material.
2. The construction, positioning, modification or dismantling of a cofferdam or caisson shall take place only under the immediate supervision of a competent person.
3. Every cofferdam and caisson shall be inspected by a competent person at prescribed intervals.

### *Article 21*

#### WORK IN COMPRESSED AIR

1. Work in compressed air shall be carried out only in accordance with measures prescribed by national laws or regulations.
2. Work in compressed air shall be carried out only by workers whose physical aptitude for such work has been established by a medical examination and when a competent person is present to supervise the conduct of the operations.

### *Article 22*

#### STRUCTURAL FRAMES AND FORMWORK

1. The erection of structural frames and components, formwork, falsework and shoring shall be carried out only under the supervision of a competent person.
2. Adequate precautions shall be taken to guard against danger to workers arising from any temporary state of weakness or instability of a structure.

3. Formwork, falsework and shoring shall be so designed, constructed and maintained that it will safely support all loads that may be imposed on it.

### *Article 23*

#### WORK OVER WATER

Where work is done over or in close proximity to water there shall be adequate provision for –

- (a) preventing workers from falling into water;
- (b) the rescue of workers in danger of drowning;
- (c) safe and sufficient transport.

### *Article 24*

#### DEMOLITION

When the demolition of any building or structure might present danger to workers or to the public –

- (a) appropriate precautions, methods and procedures shall be adopted, including those for the disposal of waste or residues, in accordance with national laws or regulations;
- (b) the work shall be planned and undertaken only under the supervision of a competent person.

### *Article 25*

#### LIGHTING

Adequate and suitable lighting, including portable lighting where appropriate, shall be provided at every workplace and any other place on the construction site where a worker may have to pass.

### *Article 26*

#### ELECTRICITY

1. All electrical equipment and installations shall be constructed, installed and maintained by a competent person, and so used as to guard against danger.

2. Before construction is commenced and during the progress thereof adequate steps shall be taken to ascertain the presence of and to guard against danger to workers from any live electrical cable or apparatus which is under, over or on the site.

3. The laying and maintenance of electrical cables and apparatus on construction sites shall be governed by the technical rules and standards applied at the national level.

### *Article 27*

#### EXPLOSIVES

Explosives shall not be stored, transported, handled or used except –

- (a) under conditions prescribed by national laws or regulations; and
- (b) by a competent person, who shall take such steps as are necessary to ensure that workers and other persons are not exposed to risk of injury.

## *Article 28*

### HEALTH HAZARDS

1. Where a worker is liable to be exposed to any chemical, physical or biological hazard to such an extent as is liable to be dangerous to health, appropriate preventive measures shall be taken against such exposure.
2. The preventive measures referred to in paragraph 1 above shall comprise –
  - (a) the replacement of hazardous substances by harmless or less hazardous substances wherever possible; or
  - (b) technical measures applied to the plant, machinery, equipment or process; or
  - (c) where it is not possible to comply with subparagraphs (a) or (b) above, other effective measures, including the use of personal protective equipment and protective clothing.
3. Where workers are required to enter any area in which a toxic or harmful substance may be present, or in which there may be an oxygen deficiency, or a flammable atmosphere, adequate measures shall be taken to guard against danger.
4. Waste shall not be destroyed or otherwise disposed of on a construction site in a manner which is liable to be injurious to health.

## *Article 29*

### FIRE PRECAUTIONS

1. The employer shall take all appropriate measures to –
  - (a) avoid the risk of fire;
  - (b) combat quickly and efficiently any outbreak of fire;
  - (c) bring about a quick and safe evacuation of persons.
2. Sufficient and suitable storage shall be provided for flammable liquids, solids and gases.

## *Article 30*

### PERSONAL PROTECTIVE EQUIPMENT AND PROTECTIVE CLOTHING

1. Where adequate protection against risk of accident or injury to health, including exposure to adverse conditions, cannot be ensured by other means, suitable personal protective equipment and protective clothing, having regard to the type of work and risks, shall be provided and maintained by the employer, without cost to the workers, as may be prescribed by national laws or regulations.
2. The employer shall provide the workers with the appropriate means to enable them to use the individual protective equipment, and shall ensure its proper use.
3. Protective equipment and protective clothing shall comply with standards set by the competent authority taking into account as far as possible ergonomic principles.
4. Workers shall be required to make proper use of and to take good care of the personal protective equipment and protective clothing provided for their use.



*Article 31*

## FIRST AID

The employer shall be responsible for ensuring that first aid, including trained personnel, is available at all times. Arrangements shall be made for ensuring the removal for medical attention of workers who have suffered an accident or sudden illness.

*Article 32*

## WELFARE

1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water shall be provided.

2. At or within reasonable access of every construction site, the following facilities shall, depending on the number of workers and the duration of the work, be provided and maintained –

- (a) sanitary and washing facilities;
- (b) facilities for changing and for the storage and drying of clothing;
- (c) accommodation for taking meals and for taking shelter during interruption of work due to adverse weather conditions.

3. Men and women workers should be provided with separate sanitary and washing facilities.

*Article 33*

## INFORMATION AND TRAINING

Workers shall be adequately and suitably –

- (a) informed of potential safety and health hazards to which they may be exposed at their workplace;
- (b) instructed and trained in the measures available for the prevention and control of, and protection against, those hazards.

*Article 34*

## REPORTING OF ACCIDENTS AND DISEASES

National laws or regulations shall provide for the reporting to the competent authority within a prescribed time of occupational accidents and diseases.

## IV. IMPLEMENTATION

*Article 35*

Each Member shall –

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention;
- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their task, or satisfy itself that appropriate inspection is carried out.

## V. FINAL PROVISIONS

### *Article 36*

This Convention revises the Safety Provisions (Building) Convention, 1937.

### *Article 37*

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

### *Article 38*

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 39*

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 40*

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 41*

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 42*

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 43*

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 39 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 44*

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

## Recommendation No. 175

### Recommendation concerning Safety and Health in Construction

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 Seventy-fifth Session on 1 June 1988, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Safety Provisions (Building) Convention and Recommendation, 1937, the Co-operation in Accident Prevention (Building) Recommendation, 1937, the Radiation Protection Convention and Recommendation, 1960, the Guarding of Machinery Convention and Recommendation, 1963, the Maximum Weight Convention and Recommendation, 1967, the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1985, the Asbestos Convention and Recommendation, 1986, and the list of occupational diseases as revised in 1980 appended to the Employment Injuries Benefits Convention, 1964, and

Having decided upon the adoption of certain proposals with regard to safety and health in construction, 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 Safety and Health in Construction Convention,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-eight the following Recommendation, which may be cited as the Safety and Health in Construction Recommendation, 1988:

#### I. SCOPE AND DEFINITIONS

1. The provisions of the Safety and Health in Construction Convention, 1988 (hereinafter referred to as “the Convention”) and of this Recommendation should be applied in particular to:

- (a) building, civil engineering and the erection and dismantling of prefabricated buildings and structures, as defined in Article 2(a) of the Convention;
- (b) the fabrication and erection of oil rigs, and of offshore installations while under construction on shore.

2. For the purposes of this Recommendation –

- (a) the term “construction” covers:
  - (i) building, including excavation and the construction, structural alteration, renovation, repair, maintenance (including cleaning and painting) and demolition of all types of buildings or structures;
  - (ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies;
  - (iii) the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;
- (b) the term “construction site” means any site at which any of the processes or operations described in clause (a) above are carried on;
- (c) the term “workplace” means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in clause (f) below;

- (d) the term “worker” means any person engaged in construction;
  - (e) the term “workers’ representatives” means persons who are recognised as such under national law or practice;
  - (f) the term “employer” means:
    - (i) any physical or legal person who employs one or more workers on a construction site; and
    - (ii) as the context requires, the principal contractor, the contractor or the subcontractor;
  - (g) the term “competent person” means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them;
  - (h) the term “scaffold” means any temporary structure, fixed, suspended or mobile, and its supporting components which is used for supporting workers and materials or to gain access to any such structure, and which is not a “lifting appliance” as defined in clause (i) below;
  - (i) the term “lifting appliance” means any stationary or mobile appliance used for raising or lowering persons or loads;
  - (j) the term “lifting gear” means any gear or tackle by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load.
3. The provisions of this Recommendation should also apply to such self-employed persons as may be specified by national laws or regulations.

## II. GENERAL PROVISIONS

4. National laws or regulations should require that employers and self-employed persons have a general duty to provide a safe and healthy workplace and to comply with the prescribed safety and health measures.

5. (1) Whenever two or more employers undertake activities at one construction site, they should have the duty to co-operate with one another as well as with any other persons participating in the construction work being undertaken, including the owner or his representative, in order to comply with the prescribed safety and health measures.

(2) Ultimate responsibility for the co-ordination of safety and health measures on the construction site should rest with the principal contractor or such other person as is primarily responsible for the execution of the work.

6. The measures to be taken to ensure that there is organised co-operation between employers and workers to promote safety and health at construction sites should be prescribed by national laws or regulations or by the competent authority. Such measures should include –

- (a) the establishment of safety and health committees representative of employers and workers with such powers and duties as may be prescribed;
- (b) the election or appointment of workers’ safety delegates with such powers and duties as may be prescribed;
- (c) the appointment by the employer of suitably qualified and experienced persons to promote safety and health;
- (d) the training of safety delegates and safety committee members.

7. Those concerned with the design and planning of a construction project should take into account the safety and health of the construction workers in accordance with national laws, regulations and practice.

8. The design of construction equipment, tools, protective equipment and other similar equipment should take account of ergonomic principles.

### III. PREVENTIVE AND PROTECTIVE MEASURES

9. Construction work should be planned, prepared and undertaken in such a way that –

- (a) risks liable to arise at the workplace are prevented as soon as possible;
- (b) excessively or unnecessarily strenuous work positions and movements are avoided;
- (c) organisation of work takes into account the safety and health of workers;
- (d) materials and products are used which are suitable from a safety and health point of view;
- (e) working methods are employed which protect workers against the harmful effects of chemical, physical and biological agents.

10. National laws or regulations should provide for the notification to the competent authority of construction sites of such size, duration or characteristics as may be prescribed.

11. Workers should have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

#### SAFETY OF WORKPLACES

12. Housekeeping programmes should be established and implemented on construction sites which should include provision for –

- (a) the proper storage of materials and equipment;
- (b) the removal of waste and debris at appropriate intervals.

13. Where workers cannot be protected against falls from heights by any other means –

- (a) adequate safety nets or safety sheets should be erected and maintained; or
- (b) adequate safety harnesses should be provided and used.

14. The employer should provide the workers with the appropriate means to enable them to use individual protective equipment and should ensure its proper use. Protective equipment and protective clothing should comply with standards set by the competent authority, taking into account as far as possible ergonomic principles.

15. (1) The safety of construction machinery and equipment should be examined and tested by type or individually, as appropriate, by a competent person.

(2) National laws and regulations should take into consideration the fact that occupational diseases may be caused by machinery, apparatus and systems which do not take account of ergonomic principles in their design.

#### SCAFFOLDS

16. Every scaffold and part thereof should be of suitable and sound material and of adequate size and strength for the purpose for which it is used and be maintained in a proper condition.

17. Every scaffold should be properly designed, erected and maintained so as to prevent collapse or accidental displacement when properly used.

18. The working platforms, gangways and stairways of scaffolds should be of such dimensions and so constructed and guarded as to protect persons against falling or being endangered by falling objects.

19. No scaffold should be overloaded or otherwise misused.

20. A scaffold should not be erected, substantially altered or dismantled except by or under the supervision of a competent person.

21. Scaffolds as prescribed by national laws or regulations should be inspected, and the results recorded, by a competent person –

- (a) before being taken into use;
- (b) at periodic intervals thereafter;
- (c) after any alteration, interruption in use, exposure to weather or seismic conditions or any other occurrence likely to have affected their strength or stability.

#### LIFTING APPLIANCES AND LIFTING GEAR

22. National laws or regulations should prescribe the lifting appliances and items of lifting gear which should be examined and tested by a competent person –

- (a) before being taken into use for the first time;
- (b) after erection on a site;
- (c) subsequently at intervals prescribed by such national laws or regulations;
- (d) after any substantial alteration or repair.

23. The results of the examinations and tests of lifting appliances and items of lifting gear carried out in pursuance of Paragraph 22 above should be recorded and, as required, made available to the competent authority and to employers and workers or their representatives.

24. Every lifting appliance having a single safe working load and every item of lifting gear should be clearly marked with its maximum safe working load.

25. Every lifting appliance having a variable safe working load should be fitted with effective means to indicate clearly to the driver each maximum safe working load and the conditions under which it is applicable.

26. A lifting appliance or item of lifting gear should not be loaded beyond its safe working load or loads, except for testing purposes as specified by and under the direction of a competent person.

27. Every lifting appliance and every item of lifting gear should be properly installed so as, inter alia, to provide safe clearance between any moving part and fixed objects, and to ensure the stability of the appliance.

28. Where necessary to guard against danger, no lifting appliance should be used without the provision of suitable signalling arrangements or devices.

29. The drivers and operators of such lifting appliances as are prescribed by national laws or regulations should be –

- (a) of a prescribed minimum age;
- (b) properly trained and qualified.

#### TRANSPORT, EARTH-MOVING AND MATERIALS-HANDLING EQUIPMENT

30. The drivers and operators of vehicles and of earth-moving or materials-handling equipment should be persons trained and tested as required by national laws or regulations.

31. Adequate signalling or other control arrangements or devices should be provided to guard against danger from the movement of vehicles and earth-moving or materials-handling equipment. Special safety precautions should be taken for vehicles and equipment when manoeuvring backwards.

32. Preventive measures should be taken to avoid the fall of vehicles and earth-moving and materials-handling equipment into excavations or into water.

33. Where appropriate, earth-moving and materials-handling equipment should be fitted with structures designed to protect the operator from being crushed should the machine overturn, and from falling material.

#### EXCAVATIONS, SHAFTS, EARTHWORKS, UNDERGROUND WORKS AND TUNNELS

34. Shoring or other support for any part of an excavation, shaft, earthworks, underground works or tunnel should not be erected, altered or dismantled except under the supervision of a competent person.

35. (1) Every part of an excavation, shaft, earthworks, underground works and tunnel where persons are employed should be inspected by a competent person at the times and in the cases prescribed by national laws or regulations, and the results recorded.

(2) Work should not be commenced therein until after such an inspection.

#### WORK IN COMPRESSED AIR

36. The measures regarding work in compressed air prescribed pursuant to Article 21 of the Convention should include provisions regulating the conditions in which the work is to be carried out, the plant and equipment to be used, the medical supervision and control of workers and the duration of work in compressed air.

37. A person should only be allowed to work in a caisson if it has been inspected by a competent person within such preceding period as is prescribed by national laws or regulations; the results of the inspection should be recorded.

#### PILE DRIVING

38. All pile-driving equipment should be of good design and construction taking into account as far as possible ergonomic principles, and properly maintained.

39. Pile driving should be carried out only under the supervision of a competent person.

#### WORK OVER WATER

40. The provisions regarding work over water prescribed in pursuance of Article 23 of the Convention should include, where appropriate, the provision and use of suitable and adequate –

- (a) fencing, safety nets and safety harnesses;
- (b) life vests, life preservers, manned boats (motor driven if necessary) and lifebuoys;
- (c) protection against such hazards as reptiles and other animals.

#### HEALTH HAZARDS

41. (1) An information system should be set up by the competent authority, using the results of international scientific research, to provide information for architects, contractors, employers and workers' representatives on the health risks associated with hazardous substances used in the construction industry.

(2) Manufacturers and dealers in products used in the construction industry should provide with the products information on any health risks associated with them and on the precautions to be taken.

(3) In the use of materials that contain hazardous substances and in the removal and disposal of waste, the health of workers and of the public and the preservation of the environment should be safeguarded as prescribed by national laws and regulations.



(4) Dangerous substances should be clearly marked and provided with a label giving their relevant characteristics and instructions on their use. They should be handled under conditions prescribed by national laws and regulations or by the competent authority.

(5) The competent authority should determine which hazardous substances should be prohibited from use in the construction industry.

42. The competent authority should keep records of monitoring of the working environment and assessment of workers' health for a period prescribed by national laws and regulations.

43. The manual lifting of excessive weights which presents a safety and health risk to workers should be avoided by reducing the weight, by the use of mechanical devices or by other means.

44. Whenever new products, equipment and working methods are introduced, special attention should be paid to informing and training workers with respect to their implications for safety and health.

#### DANGEROUS ATMOSPHERES

45. The measures regarding dangerous atmospheres prescribed pursuant to Article 28, paragraph 3, of the Convention should include prior written authority or permission from a competent person, or any other system by which entry into any area in which a dangerous atmosphere may be present can be effected only after completing specified procedures.

#### FIRE PRECAUTIONS

46. Where necessary to guard against danger, workers should be suitably trained in the action to be taken in the event of fire, including the use of means of escape.

47. Where appropriate suitable visual signs should be provided to indicate clearly the directions of escape in case of fire.

#### RADIATION HAZARDS

48. Stringent safety regulations should be drawn up and enforced by the competent authority with respect to construction workers engaged in the maintenance, renovation, demolition or dismantling of any buildings in which there is a risk of exposure to ionising radiations, in particular in the nuclear power industry.

#### FIRST AID

49. The manner in which first-aid facilities and personnel are to be provided in pursuance of Article 31 of the Convention should be prescribed by national laws or regulations drawn up after consulting the competent health authority and the most representative organisations of employers and workers concerned.

50. Where the work involves risk of drowning, asphyxiation or electric shock, first-aid personnel should be proficient in the use of resuscitation and other life-saving techniques and in rescue procedures.

#### WELFARE

51. In appropriate cases, depending on the number of workers, the duration of the work and its location, adequate facilities for obtaining or preparing food and drink at or near a construction site should be provided, if they are not otherwise available.

52. Suitable living accommodation should be made available for the workers at construction sites which are remote from their homes, where adequate transportation between the site and their homes or other suitable living accommodation is not available. Men and women workers should be provided with separate sanitary, washing and sleeping facilities.

#### IV. EFFECT ON EARLIER RECOMMENDATIONS

53. This Recommendation supersedes the Safety Provisions (Building) Recommendation, 1937, and the Co-operation in Accident Prevention (Building) Recommendation, 1937.

## Convention No. 176

### Convention concerning Safety and Health in Mines \*

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-second Session on 6 June 1995, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Abolition of Forced Labour Convention, 1957; the Radiation Protection Convention and Recommendation, 1960; the Guarding of Machinery Convention and Recommendation, 1963; the Employment Injury Benefits Convention and Recommendation, 1964; the Minimum Age (Underground Work) Convention and Recommendation, 1965; the Medical Examination of Young Persons (Underground Work) Convention, 1965; the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977; the Occupational Safety and Health Convention and Recommendation, 1981; the Occupational Health Services Convention and Recommendation, 1985; the Asbestos Convention and Recommendation, 1986; the Safety and Health in Construction Convention and Recommendation, 1988; the Chemicals Convention and Recommendation, 1990; and the Prevention of Major Industrial Accidents Convention and Recommendation, 1993, and

Considering that workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry, and

Recognizing that it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public, or damage to the environment arising from mining operations, and

Having regard to the need for cooperation between the International Labour Organization, the World Health Organization, the International Atomic Energy Agency and other relevant institutions and noting the relevant instruments, codes of practice, codes and guidelines issued by these organizations, and

Having decided upon the adoption of certain proposals with regard to safety and health in mines, 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 twenty-second day of June of the year one thousand nine hundred and ninety-five the following Convention, which may be cited as the Safety and Health in Mines Convention, 1995:

#### PART I. DEFINITIONS

##### *Article 1*

1. For the purpose of this Convention, the term “mine” covers –

- (a) surface or underground sites where the following activities, in particular, take place:
  - (i) exploration for minerals, excluding oil and gas, that involves the mechanical disturbance of the ground;
  - (ii) extraction of minerals, excluding oil and gas;
  - (iii) preparation, including crushing, grinding, concentration or washing of the extracted material; and
- (b) all machinery, equipment, appliances, plant, buildings and civil engineering structures used in conjunction with the activities referred to in (a) above.

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\* Ed.: This Convention had not received the necessary number of ratifications to come into force by 15 May 1996.

2. For the purpose of this Convention, the term “employer” means any physical or legal person who employs one or more workers in a mine and, as the context requires, the operator, the principal contractor, contractor or subcontractor.

## PART II. SCOPE AND MEANS OF APPLICATION

### *Article 2*

1. This Convention applies to all mines.
2. After consultations with the most representative organizations of employers and workers concerned, the competent authority of a Member which ratifies the Convention:
  - (a) may exclude certain categories of mines from the application of the Convention, or certain provisions thereof, if the overall protection afforded at these mines under national law and practice is not inferior to that which would result from the full application of the provisions of the Convention;
  - (b) shall, in the case of exclusion of certain categories of mines pursuant to clause (a) above, make plans for progressively covering all mines.
3. A Member which ratifies the Convention and avails itself of the possibility afforded in paragraph 2(a) above shall indicate, in its reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any particular category of mines thus excluded and the reasons for the exclusion.

### *Article 3*

In the light of national conditions and practice and after consultations with the most representative organizations of employers and workers concerned, the Member shall formulate, carry out and periodically review a coherent policy on safety and health in mines, particularly with regard to the measures to give effect to the provisions of the Convention.

### *Article 4*

1. The measures for ensuring application of the Convention shall be prescribed by national laws and regulations.
2. Where appropriate, these national laws and regulations shall be supplemented by:
  - (a) technical standards, guidelines or codes of practice; or
  - (b) other means of application consistent with national practice,as identified by the competent authority.

### *Article 5*

1. National laws and regulations pursuant to Article 4, paragraph 1, shall designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines.
2. Such national laws and regulations shall provide for:
  - (a) the supervision of safety and health in mines;
  - (b) the inspection of mines by inspectors designated for the purpose by the competent authority;
  - (c) the procedures for reporting and investigating fatal and serious accidents, dangerous occurrences and mine disasters, each as defined by national laws or regulations;
  - (d) the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences, each as defined by national laws or regulations;

- (e) the power of the competent authority to suspend or restrict mining activities on safety and health grounds until the condition giving rise to the suspension or restriction has been corrected; and
- (f) the establishment of effective procedures to ensure the implementation of the rights of workers and their representatives to be consulted on matters and to participate in measures relating to safety and health at the workplace.

3. Such national laws and regulations shall provide that the manufacture, storage, transport and use of explosives and initiating devices at the mine shall be carried out by or under the direct supervision of competent and authorized persons.

4. Such national laws and regulations shall specify:

- (a) requirements relating to mine rescue, first aid and appropriate medical facilities;
- (b) an obligation to provide and maintain adequate self-rescue respiratory devices for workers in underground coalmines and, where necessary, in other underground mines;
- (c) protective measures to secure abandoned mine workings so as to eliminate or minimize risks to safety and health;
- (d) requirements for the safe storage, transportation and disposal of hazardous substances used in the mining process and waste produced at the mine; and
- (e) where appropriate, an obligation to supply sufficient sanitary conveniences and facilities to wash, change and eat, and to maintain them in hygienic condition.

5. Such national laws and regulations shall provide that the employer in charge of the mine shall ensure that appropriate plans of workings are prepared before the start of operation and, in the event of any significant modification, that such plans are brought up to date periodically and kept available at the mine site.

### PART III. PREVENTIVE AND PROTECTIVE MEASURES AT THE MINE

#### A. RESPONSIBILITIES OF EMPLOYERS

##### *Article 6*

In taking preventive and protective measures under this Part of the Convention, the employer shall assess the risk and deal with it in the following order of priority:

- (a) eliminate the risk;
  - (b) control the risk at source;
  - (c) minimize the risk by means that include the design of safe work systems; and
  - (d) in so far as the risk remains, provide for the use of personal protective equipment,
- having regard to what is reasonable, practicable and feasible, and to good practice and the exercise of due diligence.

##### *Article 7*

Employers shall take all necessary measures to eliminate or minimize the risks to safety and health in mines under their control, and in particular:

- (a) ensure that the mine is designed, constructed and provided with electrical, mechanical and other equipment, including a communication system, to provide conditions for safe operation and a healthy working environment;
- (b) ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers can perform the work assigned to them without endangering their safety and health or that of other persons;

- (c) take steps to maintain the stability of the ground in areas to which persons have access in the context of their work;
- (d) whenever practicable, provide, from every underground workplace, two exits, each of which is connected to separate means of egress to the surface;
- (e) ensure the monitoring, assessment and regular inspection of the working environment to identify the various hazards to which the workers may be exposed and to assess their level of exposure;
- (f) ensure adequate ventilation for all underground workings to which access is permitted;
- (g) in respect of zones susceptible to particular hazards, draw up and implement an operating plan and procedures to ensure a safe system of work and the protection of workers;
- (h) take measures and precautions appropriate to the nature of a mine operation to prevent, detect and combat the start and spread of fires and explosions; and
- (i) ensure that when there is serious danger to the safety and health of workers, operations are stopped and workers are evacuated to a safe location.

#### *Article 8*

The employer shall prepare an emergency response plan, specific to each mine, for reasonably foreseeable industrial and natural disasters.

#### *Article 9*

Where workers are exposed to physical, chemical or biological hazards, the employer shall:

- (a) inform the workers, in a comprehensible manner, of the hazards associated with their work, the health risks involved and relevant preventive and protective measures;
- (b) take appropriate measures to eliminate or minimize the risks resulting from exposure to those hazards;
- (c) where adequate protection against risk of accident or injury to health, including exposure to adverse conditions, cannot be ensured by other means, provide and maintain at no cost to the worker suitable protective equipment, clothing as necessary and other facilities defined by national laws or regulations; and
- (d) provide workers who have suffered from an injury or illness at the workplace with first aid, appropriate transportation from the workplace and access to appropriate medical facilities.

#### *Article 10*

The employer shall ensure that:

- (a) adequate training and retraining programmes and comprehensible instructions are provided for workers, at no cost to them, on safety and health matters as well as on the work assigned;
- (b) in accordance with national laws and regulations, adequate supervision and control are provided on each shift to secure the safe operation of the mine;
- (c) a system is established so that the names of all persons who are underground can be accurately known at any time, as well as their probable location;
- (d) all accidents and dangerous occurrences, as defined by national laws or regulations, are investigated and appropriate remedial action is taken; and
- (e) a report, as specified by national laws and regulations, is made to the competent authority on accidents and dangerous occurrences.

*Article 11*

On the basis of general principles of occupational health and in accordance with national laws and regulations, the employer shall ensure the provision of regular health surveillance of workers exposed to occupational health hazards specific to mining.

*Article 12*

Whenever two or more employers undertake activities at the same mine, the employer in charge of the mine shall coordinate the implementation of all measures concerning the safety and health of workers and shall be held primarily responsible for the safety of the operations. This shall not relieve individual employers from responsibility for the implementation of all measures concerning the safety and health of their workers.

## B. RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES

*Article 13*

1. Under the national laws and regulations referred to in Article 4, workers shall have the following rights:

- (a) to report accidents, dangerous occurrences and hazards to the employer and to the competent authority;
- (b) to request and obtain, where there is cause for concern on safety and health grounds, inspections and investigations to be conducted by the employer and the competent authority;
- (c) to know and be informed of workplace hazards that may affect their safety or health;
- (d) to obtain information, relevant to their safety or health, held by the employer or the competent authority;
- (e) to remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health; and
- (f) to collectively select safety and health representatives.

2. The safety and health representatives referred to in paragraph 1(f) above shall, in accordance with national laws and regulations, have the following rights:

- (a) to represent workers on all aspects of workplace safety and health, including where applicable, the exercise of the rights provided in paragraph 1 above;
- (b) to:
  - (i) participate in inspections and investigations conducted by the employer and by the competent authority at the workplace; and
  - (ii) monitor and investigate safety and health matters;
- (c) to have recourse to advisers and independent experts;
- (d) to consult with the employer in a timely fashion on safety and health matters, including policies and procedures;
- (e) to consult with the competent authority; and
- (f) to receive, relevant to the area for which they have been selected, notice of accidents and dangerous occurrences.

3. Procedures for the exercise of the rights referred to in paragraphs 1 and 2 above shall be specified:

- (a) by national laws and regulations; and
- (b) through consultations between employers and workers and their representatives.

4. National laws and regulations shall ensure that the rights referred to in paragraphs 1 and 2 above can be exercised without discrimination or retaliation.

#### *Article 14*

Under national laws and regulations, workers shall have the duty, in accordance with their training:

- (a) to comply with prescribed safety and health measures;
- (b) to take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work, including the proper care and use of protective clothing, facilities and equipment placed at their disposal for this purpose;
- (c) to report forthwith to their immediate supervisor any situation which they believe could present a risk to their safety or health or that of other persons, and which they cannot properly deal with themselves; and
- (d) to cooperate with the employer to permit compliance with the duties and responsibilities placed on the employer pursuant to the Convention.

### C. COOPERATION

#### *Article 15*

Measures shall be taken, in accordance with national laws and regulations, to encourage cooperation between employers and workers and their representatives to promote safety and health in mines.

## PART IV. IMPLEMENTATION

#### *Article 16*

The Member shall:

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention; and
- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their tasks.

## PART V. FINAL PROVISIONS

#### *Article 17*

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

#### *Article 18*

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

2. It shall come into force 12 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 12 months after the date on which its ratification has been registered.



### Article 19

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 20

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

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

### Article 21

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 the Director-General in accordance with the provisions of the preceding Articles.

### Article 22

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 23

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 19 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 24

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

## Recommendation No. 183

### Recommendation concerning Safety and Health in Mines

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-second Session on 6 June 1995, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Abolition of Forced Labour Convention, 1957; the Radiation Protection Convention and Recommendation, 1960; the Guarding of Machinery Convention and Recommendation, 1963; the Employment Injury Benefits Convention and Recommendation, 1964; the Minimum Age (Underground Work) Convention and Recommendation, 1965; the Medical Examination of Young Persons (Underground Work) Convention, 1965; the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977; the Occupational Safety and Health Convention and Recommendation, 1981; the Occupational Health Services Convention and Recommendation, 1985; the Asbestos Convention and Recommendation, 1986; the Safety and Health in Construction Convention and Recommendation, 1988; the Chemicals Convention and Recommendation, 1990; and the Prevention of Major Industrial Accidents Convention and Recommendation, 1993, and

Considering that workers have a need for, and a right to, information, training and genuine consultation on and participation in the preparation and implementation of safety and health measures concerning the hazards and risks they face in the mining industry, and

Recognizing that it is desirable to prevent any fatalities, injuries or ill health affecting workers or members of the public or damage to the environment arising from mining operations, and

Having regard to the need for cooperation between the International Labour Organization, the World Health Organization, the International Atomic Energy Agency and other relevant institutions and noting the relevant instruments, codes of practice, codes and guidelines issued by these organizations, and

Having decided upon the adoption of certain proposals with regard to safety and health in mines, 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 Safety and Health in Mines Convention;

adopts this twenty-second day of June of the year one thousand nine hundred and ninety-five the following Recommendation, which may be cited as the Safety and Health in Mines Recommendation, 1995:

#### I. GENERAL PROVISIONS

1. The provisions of this Recommendation supplement those of the Safety and Health in Mines Convention, 1995 (hereafter referred to as “the Convention”), and should be applied in conjunction with them.

2. This Recommendation applies to all mines.

3. (1) In the light of national conditions and practice and after consultation with the most representative organizations of employers and workers concerned, a Member should formulate, carry out and periodically review a coherent policy on safety and health in mines.

(2) The consultations provided for by Article 3 of the Convention should include consultations with the most representative organizations of employers and workers on the effect of the length of working hours, night work and shift work on workers’ safety and health. After such consultations, the Member should take the necessary measures in relation to working time and, in particular, to maximum daily working hours and minimum daily rest periods.

4. The competent authority should have properly qualified and trained staff with the appropriate skills, and sufficient technical and professional support, to inspect, investigate, assess and advise on the matters dealt with in the Convention and to ensure compliance with national laws and regulations.

5. Measures should be taken to encourage and promote:

- (a) research into and exchange of information on safety and health in mines at the national and international level;
- (b) specific assistance by the competent authority to small mines with a view to:
  - (i) assisting in transfer of technical know-how;
  - (ii) establishing preventive safety and health programmes; and
  - (iii) encouraging cooperation and consultation between employers and workers and their representatives; and
- (c) programmes or systems for the rehabilitation and reintegration of workers who have sustained occupational injuries or illnesses.

6. Requirements relating to the supervision of safety and health in mines pursuant to Article 5, paragraph 2, of the Convention should, where appropriate, include those concerning:

- (a) certification and training;
- (b) inspection of the mine, mining equipment and installations;
- (c) supervision of the handling, transportation, storage and use of explosives and of hazardous substances used or produced in the mining process;
- (d) performance of work on electrical equipment and installations; and
- (e) supervision of workers.

7. Requirements pursuant to Article 5, paragraph 4, of the Convention, could provide that the suppliers of equipment, appliances, hazardous products and substances to the mine should ensure their compliance with national standards on safety and health, label products clearly and provide comprehensible information and instructions.

8. Requirements relating to mine rescue and first aid pursuant to Article 5, paragraph 4(a), of the Convention and to appropriate medical facilities for emergency care could cover:

- (a) organizational arrangements;
- (b) equipment to be provided;
- (c) standards for training;
- (d) training of workers and participation in drills;
- (e) the appropriate number of trained persons to be available;
- (f) an appropriate communication system;
- (g) an effective system to give warning of danger;
- (h) provision and maintenance of means of escape and rescue;
- (i) establishment of a mine rescue team or teams;
- (j) periodic medical assessment of suitability of, and regular training for, the persons on the mine rescue team or teams;
- (k) medical attention and transportation to receive medical attention, both at no cost to workers who have suffered an injury or illness at the workplace;
- (l) coordination with local authorities;

(m) measures to promote international cooperation in this field.

9. Requirements pursuant to Article 5, paragraph 4(b), of the Convention, could cover the specifications and standards of the type of self-rescuers to be provided and, in particular, in the case of mines susceptible to gas outbursts and other mines where appropriate, the provision of self-contained respiratory devices.

10. National laws and regulations should prescribe measures for the safe use and maintenance of remote control equipment.

11. National laws and regulations should specify that the employer should take appropriate measures for the protection of workers working alone or in isolation.

## II. PREVENTIVE AND PROTECTIVE MEASURES AT THE MINE

12. Employers should undertake hazard assessment and risk analysis and then develop and implement, where appropriate, systems to manage the risk.

13. In order to maintain the stability of the ground, in accordance with Article 7(c) of the Convention, the employer should take all appropriate measures to:

- (a) monitor and control the movement of strata;
- (b) as may be necessary, provide effective support of the roof, sides and floor of the mine workings, except for those areas where the mining methods selected allow for the controlled collapse of the ground;
- (c) monitor and control the sides of surface mines to prevent material from falling or sliding into the pit and endangering workers; and
- (d) ensure that dams, lagoons, tailings and other such impoundments are adequately designed, constructed and controlled to prevent dangers from sliding material or collapse.

14. Pursuant to Article 7(d) of the Convention, separate means of egress should be as independent of each other as possible; arrangements should be made and equipment provided for the safe evacuation of workers in case of danger.

15. Pursuant to Article 7(f) of the Convention, all underground mine workings to which workers have access, and other areas as necessary, should be ventilated in an appropriate manner to maintain an atmosphere:

- (a) in which the risk of explosions is eliminated or minimized;
- (b) in which working conditions are adequate, having regard to the working method being used and the physical demands placed on the workers; and
- (c) that complies with national standards on dusts, gases, radiation and climatic conditions; where national standards do not exist, the employer should give consideration to international standards.

16. The particular hazards referred to in Article 7(g) of the Convention requiring an operating plan and procedures might include:

- (a) mine fires and explosions;
- (b) gas outbursts;
- (c) rockbursts;
- (d) an inrush of water or semi-solids;
- (e) rockfalls;
- (f) susceptibility of areas to seismic movements;
- (g) hazards related to work carried out near dangerous openings or under particularly difficult geological circumstances;

(h) loss of ventilation.

17. Measures that employers could take pursuant to Article 7(h) of the Convention should include, where applicable, prohibiting persons from carrying underground any item, object or substance which could initiate a fire, explosion or dangerous occurrence.

18. Pursuant to Article 7(i) of the Convention, mine facilities should include, where appropriate, sufficient fireproof and self-contained chambers to provide refuge for workers in the event of an emergency. The self-contained chambers should be easily identifiable and accessible, particularly when visibility is poor.

19. The emergency response plan referred to in Article 8 of the Convention might include:

- (a) effective site emergency plans;
- (b) provision for the cessation of work and evacuation of the workers in an emergency;
- (c) adequate training in emergency procedures and in the use of equipment;
- (d) adequate protection of the public and the environment;
- (e) provision of information to, and consultation with, appropriate bodies and organizations.

20. The hazards referred to in Article 9 of the Convention might include:

- (a) airborne dusts;
- (b) flammable, toxic, noxious and other mine gases;
- (c) fumes and hazardous substances;
- (d) exhaust fumes from diesel engines;
- (e) oxygen deficiency;
- (f) radiation from rock strata, equipment or other sources;
- (g) noise and vibration;
- (h) extreme temperatures;
- (i) high levels of humidity;
- (j) insufficient lighting or ventilation;
- (k) hazards related to work carried out at high altitudes or extreme depths, or in confined spaces;
- (l) hazards associated with manual handling;
- (m) hazards related to mechanical equipment and electrical installations;
- (n) hazards resulting from a combination of any of the above.

21. The measures referred to in Article 9 of the Convention might include:

- (a) technical and organizational measures applied to relevant mining activities, or to the plant, machinery, equipment, appliances or structures;
- (b) where it is not possible to have recourse to the measures referred to in (a) above, other effective measures, including the use of personal protective equipment and protective clothing at no cost to the worker;
- (c) where reproductive health hazards and risks have been identified, training and special technical and organizational measures, including the right to alternative work, where appropriate, without any loss of salary, especially during health risk periods such as pregnancy and breast-feeding;
- (d) regular monitoring and inspection of areas where hazards are present or likely to be present.

22. The types of protective equipment and facilities referred to in Article 9(c) of the Convention could include:

- (a) roll-over and falling object protective structures;
- (b) equipment seat belts and harnesses;
- (c) fully enclosed pressurized cabins;
- (d) self-contained rescue chambers;
- (e) emergency showers and eyewash stations.

23. In implementing Article 10(b) of the Convention, employers should:

- (a) ensure appropriate inspections of each workplace at the mine, and in particular, of the atmosphere, ground conditions, machinery, equipment and appliances therein, including where necessary pre-shift inspections; and
- (b) keep written records of inspections, defects and corrective measures and make such records available at the mine.

24. Where appropriate, the health surveillance referred to in Article 11 of the Convention should, at no cost to the worker and without any discrimination or retaliation whatsoever:

- (a) provide the opportunity to undergo medical examination related to the requirements of the tasks to be performed, prior to or just after commencing employment and thereafter on a continuing basis; and
- (b) provide, where possible, for reintegration or rehabilitation of workers unable to undertake their normal duties due to occupational injury or illness.

25. Pursuant to Article 5, paragraph 4(e), of the Convention, employers should, where appropriate, provide and maintain at no cost to the worker:

- (a) sufficient and suitable toilets, showers, wash-basins and changing facilities which are, where appropriate, gender-specific;
- (b) adequate facilities for the storage, laundering and drying of clothes;
- (c) adequate supplies of potable drinking-water in suitable places; and
- (d) adequate and hygienic facilities for taking meals.

### III. RIGHTS AND DUTIES OF WORKERS AND THEIR REPRESENTATIVES

26. Pursuant to Article 13 of the Convention, workers and their safety and health representatives should receive or have access to, where appropriate, information which should include:

- (a) where practicable, notice of any safety- or health-related visit to the mine by the competent authority;
- (b) reports of inspections conducted by the competent authority or the employer, including inspections of machinery or equipment;
- (c) copies of orders or instructions issued by the competent authority in respect of safety and health matters;
- (d) reports of accidents, injuries, instances of ill health and other occurrences affecting safety and health prepared by the competent authority or the employer;
- (e) information and notices on all hazards at work including hazardous, toxic or harmful materials, agents or substances used at the mine;
- (f) any other documentation concerning safety and health that the employer is required to maintain;

- (g) immediate notification of accidents and dangerous occurrences; and
- (h) any health studies conducted in respect of hazards present in the workplace.

27. Provisions to be made pursuant to Article 13, paragraph 1(e), of the Convention could include requirements for:

- (a) notification of supervisors and safety and health representatives of the danger referred to in that provision;
- (b) participation by senior representatives of the employer and representatives of the workers in endeavouring to resolve the issue;
- (c) participation, where necessary, by a representative of the competent authority to assist in resolution of the issue;
- (d) non-loss of pay for the worker and, where appropriate, assignment to suitable alternative work;
- (e) notification, to be given to any worker who is requested to perform work in the area concerned, of the fact that another worker has refused to work there and of the reasons therefor.

28. Pursuant to Article 13, paragraph 2, of the Convention, the rights of safety and health representatives should include, where appropriate, the right:

- (a) to appropriate training during working time, without loss of pay, on their rights and functions as safety and health representatives and on safety and health matters;
- (b) of access to appropriate facilities necessary to perform their functions;
- (c) to receive their normal pay for all time spent exercising their rights and performing their functions as safety and health representatives; and
- (d) to assist and advise workers who have removed themselves from a workplace because they believe their safety or health has been endangered.

29. Safety and health representatives should, where appropriate, give reasonable notice to the employer of their intention to monitor or investigate safety and health matters, as provided for in Article 13, paragraph 2(b)(ii), of the Convention.

30. (1) All persons should have a duty to:

- (a) refrain from arbitrarily disconnecting, changing or removing safety devices fitted to machinery, equipment, appliances, tools, plant and buildings; and
- (b) use such safety devices correctly.

(2) Employers should have a duty to provide workers with appropriate training and instructions so as to enable them to comply with the duties described in subparagraph (1) above.

#### IV. COOPERATION

31. Measures to encourage cooperation as provided for in Article 15 of the Convention should include:

- (a) the establishment of cooperative mechanisms such as safety and health committees, with equal representation of employers and workers, and having such powers and functions as may be prescribed, including powers to conduct joint inspections;
- (b) the appointment by the employer of suitably qualified and experienced persons to promote safety and health;
- (c) the training of workers and their safety and health representatives;
- (d) the provision of ongoing safety and health awareness programmes for workers;
- (e) the ongoing exchange of information and experience on safety and health in mines;

- (f) the consultation of workers and their representatives by the employer in establishing safety and health policy and procedures; and
- (g) the inclusion, by the employer, of workers' representatives in the investigation of accidents and dangerous occurrences, as provided in Article 10(d) of the Convention.

#### V. OTHER PROVISIONS

32. There should be no discrimination or retaliation against any worker who exercises rights provided by national laws and regulations or agreed upon by the employers, workers and their representatives.

33. Due regard should be given to the possible impact of mining activity on the surrounding environment and on the safety of the public. In particular, this should include the control of subsidence, vibration, fly-rock, harmful contaminants in the water, air or soil, the safe and effective management of waste tips and the rehabilitation of mine sites.



## Convention No. 184

### Convention concerning Safety and Health in Agriculture

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 89th Session on 5 June 2001, and

Noting the principles embodied in the relevant international labour Conventions and Recommendations, in particular the Plantations Convention and Recommendation, 1958, the Employment Injury Benefits Convention and Recommendation, 1964, the Labour Inspection (Agriculture) Convention and Recommendation, 1969, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, and the Chemicals Convention and Recommendation, 1990, and

Stressing the need for a coherent approach to agriculture and taking into consideration the wider framework of the principles embodied in other ILO instruments applicable to the sector, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and

Noting the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy as well as the relevant codes of practice, in particular the code of practice on recording and notification of occupational accidents and diseases, 1996, and the code of practice on safety and health in forestry work, 1998, and

Having decided upon the adoption of certain proposals with regard to safety and health in agriculture, 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 twenty-first day of June of the year two thousand and one the following Convention, which may be cited as the Safety and Health in Agriculture Convention, 2001.

#### I. SCOPE

##### *Article 1*

For the purpose of this Convention the term “agriculture” covers agricultural and forestry activities carried out in agricultural undertakings including crop production, forestry activities, animal husbandry and insect raising, the primary processing of agricultural and animal products by or on behalf of the operator of the undertaking as well as the use and maintenance of machinery, equipment, appliances, tools, and agricultural installations, including any process, storage, operation or transportation in an agricultural undertaking, which are directly related to agricultural production.

##### *Article 2*

For the purpose of this Convention the term “agriculture” does not cover:

- (a) subsistence farming;
- (b) industrial processes that use agricultural products as raw material and the related services; and
- (c) the industrial exploitation of forests.

##### *Article 3*

1. The competent authority of a Member which ratifies the Convention, after consulting the representative organizations of employers and workers concerned:

- (a) may exclude certain agricultural undertakings or limited categories of workers from the application of this Convention or certain provisions thereof, when special problems of a substantial nature arise; and
- (b) shall, in the case of such exclusions, make plans to cover progressively all undertakings and all categories of workers.

2. Each Member shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any exclusions made in pursuance of paragraph 1(a) of this Article giving the reasons for such exclusion. In subsequent reports, it shall describe the measures taken with a view to extending progressively the provisions of the Convention to the workers concerned.

## II. GENERAL PROVISIONS

### *Article 4*

1. In the light of national conditions and practice and after consulting the representative organizations of employers and workers concerned, Members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work, by eliminating, minimizing or controlling hazards in the agricultural working environment.

2. To this end, national laws and regulations shall:

- (a) designate the competent authority responsible for the implementation of the policy and for the enforcement of national laws and regulations on occupational safety and health in agriculture;
- (b) specify the rights and duties of employers and workers with respect to occupational safety and health in agriculture; and
- (c) establish mechanisms of inter-sectoral coordination among relevant authorities and bodies for the agricultural sector and define their functions and responsibilities, taking into account their complementarity and national conditions and practices.

3. The designated competent authority shall provide for corrective measures and appropriate penalties in accordance with national laws and regulations, including, where appropriate, the suspension or restriction of those agricultural activities which pose an imminent risk to the safety and health of workers, until the conditions giving rise to the suspension or restriction have been corrected.

### *Article 5*

1. Members shall ensure that an adequate and appropriate system of inspection for agricultural workplaces is in place and is provided with adequate means.

2. In accordance with national legislation, the competent authority may entrust certain inspection functions at the regional or local level, on an auxiliary basis, to appropriate government services, public institutions, or private institutions under government control, or may associate these services or institutions with the exercise of such functions.

## III. PREVENTIVE AND PROTECTIVE MEASURES

### GENERAL

### *Article 6*

1. In so far as is compatible with national laws and regulations, the employer shall have a duty to ensure the safety and health of workers in every aspect related to the work.

2. National laws and regulations or the competent authority shall provide that whenever in an agricultural workplace two or more employers undertake activities, or whenever one or more employers and one or more self-employed persons undertake activities, they shall cooperate in applying the safety and health requirements. Where appropriate, the competent authority shall prescribe general procedures for this collaboration.

#### *Article 7*

In order to comply with the national policy referred to in Article 4 of the Convention, national laws and regulations or the competent authority shall provide, taking into account the size of the undertaking and the nature of its activity, that the employer shall:

- (a) carry out appropriate risk assessments in relation to the safety and health of workers and, on the basis of these results, adopt preventive and protective measures to ensure that under all conditions of their intended use, all agricultural activities, workplaces, machinery, equipment, chemicals, tools and processes under the control of the employer are safe and comply with prescribed safety and health standards;
- (b) ensure that adequate and appropriate training and comprehensible instructions on safety and health and any necessary guidance or supervision are provided to workers in agriculture, including information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language; and
- (c) take immediate steps to stop any operation where there is an imminent and serious danger to safety and health and to evacuate workers as appropriate.

#### *Article 8*

1. Workers in agriculture shall have the right:

- (a) to be informed and consulted on safety and health matters including risks from new technologies;
- (b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in safety and health committees; and
- (c) to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions.

2. Workers in agriculture and their representatives shall have the duty to comply with the prescribed safety and health measures and to cooperate with employers in order for the latter to comply with their own duties and responsibilities.

3. The procedures for the exercise of the rights and duties referred to in paragraphs 1 and 2 shall be established by national laws and regulations, the competent authority, collective agreements or other appropriate means.

4. Where the provisions of this Convention are implemented as provided for by paragraph 3, there shall be prior consultation with the representative organizations of employers and workers concerned.

### MACHINERY SAFETY AND ERGONOMICS

#### *Article 9*

1. National laws and regulations or the competent authority shall prescribe that machinery, equipment, including personal protective equipment, appliances and hand tools used in agriculture

comply with national or other recognized safety and health standards and be appropriately installed, maintained and safeguarded.

2. The competent authority shall take measures to ensure that manufacturers, importers and suppliers comply with the standards referred to in paragraph 1 and provide adequate and appropriate information, including hazard warning signs, in the official language or languages of the user country, to the users and, on request, to the competent authority.

3. Employers shall ensure that workers receive and understand the safety and health information supplied by manufacturers, importers and suppliers.

#### *Article 10*

National laws and regulations shall prescribe that agricultural machinery and equipment shall:

- (a) only be used for work for which they are designed, unless a use outside of the initial design purpose has been assessed as safe in accordance with national law and practice and, in particular, shall not be used for human transportation, unless designed or adapted so as to carry persons; and
- (b) be operated by trained and competent persons, in accordance with national law and practice.

### HANDLING AND TRANSPORT OF MATERIALS

#### *Article 11*

1. The competent authority, after consulting the representative organizations of employers and workers concerned, shall establish safety and health requirements for the handling and transport of materials, particularly on manual handling. Such requirements shall be based on risk assessment, technical standards and medical opinion, taking account of all the relevant conditions under which the work is performed in accordance with national law and practice.

2. Workers shall not be required or permitted to engage in the manual handling or transport of a load which by reason of its weight or nature is likely to jeopardize their safety or health.

### SOUND MANAGEMENT OF CHEMICALS

#### *Article 12*

The competent authority shall take measures, in accordance with national law and practice, to ensure that:

- (a) there is an appropriate national system or any other system approved by the competent authority establishing specific criteria for the importation, classification, packaging and labelling of chemicals used in agriculture and for their banning or restriction;
- (b) those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture comply with national or other recognized safety and health standards, and provide adequate and appropriate information to the users in the appropriate official language or languages of the country and, on request, to the competent authority; and
- (c) there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment.

#### *Article 13*

1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures for the use of chemicals and handling of chemical waste at the level of the undertaking.

2. These measures shall cover, inter alia:

- (a) the preparation, handling, application, storage and transportation of chemicals;
- (b) agricultural activities leading to the dispersion of chemicals;
- (c) the maintenance, repair and cleaning of equipment and containers for chemicals; and
- (d) the disposal of empty containers and the treatment and disposal of chemical waste and obsolete chemicals.

#### ANIMAL HANDLING AND PROTECTION AGAINST BIOLOGICAL RISKS

##### *Article 14*

National laws and regulations shall ensure that risks such as those of infection, allergy or poisoning are prevented or kept to a minimum when biological agents are handled, and activities involving animals, livestock and stabling areas, comply with national or other recognized health and safety standards.

#### AGRICULTURAL INSTALLATIONS

##### *Article 15*

The construction, maintenance and repairing of agricultural installations shall be in conformity with national laws, regulations and safety and health requirements.

#### IV. OTHER PROVISIONS

#### YOUNG WORKERS AND HAZARDOUS WORK

##### *Article 16*

1. The minimum age for assignment to work in agriculture which by its nature or the circumstances in which it is carried out is likely to harm the safety and health of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 applies shall be determined by national laws and regulations or by the competent authority, after consultation with the representative organizations of employers and workers concerned.

3. Notwithstanding paragraph 1, national laws or regulations or the competent authority may, after consultation with the representative organizations of employers and workers concerned, authorize the performance of work referred to in that paragraph as from 16 years of age on condition that appropriate prior training is given and the safety and health of the young workers are fully protected.

#### TEMPORARY AND SEASONAL WORKERS

##### *Article 17*

Measures shall be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to comparable permanent workers in agriculture.

#### WOMEN WORKERS

##### *Article 18*

Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.

#### WELFARE AND ACCOMMODATION FACILITIES

##### *Article 19*

National laws and regulations or the competent authority shall prescribe, after consultation with the representative organizations of employers and workers concerned:

- (a) the provision of adequate welfare facilities at no cost to the worker; and
- (b) the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.

#### WORKING TIME ARRANGEMENTS

##### *Article 20*

Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements.

#### COVERAGE AGAINST OCCUPATIONAL INJURIES AND DISEASES

##### *Article 21*

1. In accordance with national law and practice, workers in agriculture shall be covered by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases, as well as against invalidity and other work-related health risks, providing coverage at least equivalent to that enjoyed by workers in other sectors.

2. Such schemes may either be part of a national scheme or take any other appropriate form consistent with national law and practice.

#### FINAL PROVISIONS

##### *Article 22*

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

##### *Article 23*

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

2. It shall come into force 12 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 12 months after the date on which its ratification has been registered.

##### *Article 24*

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 25*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

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

#### *Article 26*

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 the Director-General in accordance with the provisions of the preceding Articles.

#### *Article 27*

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 28*

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 24 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 29*

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

## Recommendation No. 192

### Recommendation concerning Safety and Health in Agriculture

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 89th Session on 5 June 2001, and

Having decided upon the adoption of certain proposals with regard to safety and health in agriculture, 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 Safety and Health in Agriculture Convention, 2001 (hereinafter referred to as “the Convention”);

adopts this twenty-first day of June of the year two thousand and one the following Recommendation, which may be cited as the Safety and Health in Agriculture Recommendation, 2001.

#### I. GENERAL PROVISIONS

1. In order to give effect to Article 5 of the Convention, the measures concerning labour inspection in agriculture should be taken in the light of the principles embodied in the Labour Inspection (Agriculture) Convention and Recommendation, 1969.

2. Multinational enterprises should provide adequate safety and health protection for their workers in agriculture in all their establishments, without discrimination and regardless of the place or country in which they are situated, in accordance with national law and practice and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

#### II. OCCUPATIONAL SAFETY AND HEALTH SURVEILLANCE

3. (1) The competent authority designated to implement the national policy referred to in Article 4 of the Convention should, after consulting the representative organizations of employers and workers concerned:

- (a) identify major problems, establish priorities for action, develop effective methods for dealing with them and periodically evaluate the results;
- (b) prescribe measures for the prevention and control of occupational hazards in agriculture:
  - (i) taking into consideration technological progress and knowledge in the field of safety and health, as well as relevant standards, guidelines and codes of practice adopted by recognized national or international organizations;
  - (ii) taking into account the need to protect the general environment from the impact of agricultural activities;
  - (iii) specifying the steps to be taken to prevent or control the risk of work-related endemic diseases for workers in agriculture; and
  - (iv) specifying that no single worker should carry out hazardous work in an isolated or confined area, without an adequate possibility of communication and means of assistance; and
- (c) prepare guidelines for employers and workers.

(2) To give effect to Article 4 of the Convention, the competent authority should:

- (a) adopt provisions for the progressive extension of appropriate occupational health services for workers in agriculture;
- (b) establish procedures for the recording and notification of occupational accidents and diseases in agriculture, in particular for the compilation of statistics, the implementation of the



national policy and the development of preventive programmes at the level of the undertaking; and

- (c) promote safety and health in agriculture by means of educational programmes and materials to meet the needs of agricultural employers and workers.

4. (1) To give effect to Article 7 of the Convention, the competent authority should establish a national system for occupational safety and health surveillance which should include both workers' health surveillance and the surveillance of the working environment.

(2) This system should include the necessary risk assessment and, where appropriate, preventive and control measures with respect to, inter alia:

- (a) hazardous chemicals and waste;
- (b) toxic, infectious or allergenic biological agents and waste;
- (c) irritant or toxic vapours;
- (d) hazardous dusts;
- (e) carcinogenic substances or agents;
- (f) noise and vibration;
- (g) extreme temperatures;
- (h) solar ultraviolet radiations;
- (i) transmissible animal diseases;
- (j) contact with wild or poisonous animals;
- (k) the use of machinery and equipment, including personal protective equipment;
- (l) the manual handling or transport of loads;
- (m) intense or sustained physical and mental efforts, work-related stress and inadequate working postures; and
- (n) risks from new technologies.

(3) Health surveillance measures for young workers, pregnant and nursing women and aged workers should be taken, where appropriate.

### III. PREVENTIVE AND PROTECTIVE MEASURES

#### *Risk assessment and management*

5. To give effect to Article 7 of the Convention, a set of measures on safety and health at the level of the undertaking should include:

- (a) occupational safety and health services;
- (b) risk assessment and management measures in the following order of priority:
  - (i) elimination of the risk;
  - (ii) control of the risk at the source;
  - (iii) minimization of the risk by such means as the design of safe work systems, the introduction of technical and organizational measures and safe practices, and training; and
  - (iv) in so far as the risk remains, provision and use of personal protective equipment and clothing, at no cost to the worker;
- (c) measures to deal with accidents and emergencies, including first aid and access to appropriate transportation to medical facilities;

- (d) procedures for the recording and notification of accidents and diseases;
- (e) appropriate measures to protect persons present at an agricultural site, the population in the vicinity of it and the general environment, from risks which may arise from the agricultural activity concerned, such as those due to agrochemical waste, livestock waste, soil and water contamination, soil depletion and topographic changes; and
- (f) measures to ensure that the technology used is adapted to climate, work organization and working practices.

#### *Machinery safety and ergonomics*

6. To give effect to Article 9 of the Convention, measures should be taken to ensure the appropriate selection or adaptation of technology, machinery and equipment, including personal protective equipment, taking into account local conditions in user countries and, in particular, ergonomic implications and the effect of climate.

#### *Sound management of chemicals*

7. (1) The measures prescribed concerning the sound management of chemicals in agriculture should be taken in the light of the principles of the Chemicals Convention and Recommendation, 1990, and other relevant international technical standards.

(2) In particular, preventive and protective measures to be taken at the level of the undertaking should include:

- (a) adequate personal protective equipment and clothing, and washing facilities for those using chemicals and for the maintenance and cleaning of personal protective and application equipment, at no cost to the worker;
- (b) spraying and post-spraying precautions in areas treated with chemicals, including measures to prevent pollution of food, drinking, washing and irrigation water sources;
- (c) handling and disposal of hazardous chemicals which are no longer required, and containers which have been emptied but which may contain residues of hazardous chemicals, in a manner which eliminates or minimizes the risk to safety and health and to the environment, in accordance with national law and practice;
- (d) keeping a register of the application of pesticides used in agriculture; and
- (e) training of agricultural workers on a continuing basis to include, as appropriate, training in the practices and procedures or about hazards and on the precautions to be followed in connection with the use of chemicals at work.

#### *Animal handling and protection against biological risks*

8. For the purpose of implementing Article 14 of the Convention, the measures for the handling of biological agents giving rise to risks of infection, allergy or poisoning, and for the handling of animals should comprise the following:

- (a) risk assessment measures in accordance with Paragraph 5, in order to eliminate, prevent or reduce biological risks;
- (b) control and testing of animals, in accordance with veterinary standards and national law and practice, for diseases transmissible to humans;
- (c) protective measures for the handling of animals and, where appropriate, provision of protective equipment and clothing;
- (d) protective measures for the handling of biological agents and, if necessary, provision of appropriate protective equipment and clothing;
- (e) immunization of workers handling animals, as appropriate;

- (f) provision of disinfectants and washing facilities, and the maintenance and cleaning of personal protective equipment and clothing;
- (g) provision of first aid, antidotes or other emergency procedures in case of contact with poisonous animals, insects or plants;
- (h) safety measures for the handling, collection, storage and disposal of manure and waste;
- (i) safety measures for the handling and disposal of carcasses of infected animals, including the cleaning and disinfection of contaminated premises; and
- (j) safety information including warning signs and training for those workers handling animals.

#### *Agricultural installations*

9. To give effect to Article 15 of the Convention, the safety and health requirements concerning agricultural installations should specify technical standards for buildings, structures, guardrails, fences and confined spaces.

#### *Welfare and accommodation facilities*

10. To give effect to Article 19 of the Convention, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture:

- (a) an adequate supply of safe drinking water;
- (b) facilities for the storage and washing of protective clothing;
- (c) facilities for eating meals, and for nursing children in the workplace where practicable;
- (d) separate sanitary and washing facilities, or separate use thereof, for men and women workers; and
- (e) work-related transportation.

### IV. OTHER PROVISIONS

#### *Women workers*

11. In order to give effect to Article 18 of the Convention, measures should be taken to ensure assessment of any workplace risks related to the safety and health of pregnant or nursing women, and women's reproductive health.

#### *Self-employed farmers*

12. (1) Taking into consideration the views of representative organizations of self-employed farmers, Members should make plans to extend progressively to self-employed farmers the protection afforded by the Convention, as appropriate.

(2) To this end, national laws and regulations should specify the rights and duties of self-employed farmers with respect to safety and health in agriculture.

(3) In the light of national conditions and practice, the views of representative organizations of self-employed farmers should be taken into consideration, as appropriate, in the formulation, implementation and periodic review of the national policy referred to in Article 4 of the Convention.

13. (1) In accordance with national law and practice, measures should be taken by the competent authority to ensure that self-employed farmers enjoy safety and health protection afforded by the Convention.

(2) These measures should include:

- (a) provisions for the progressive extension of appropriate occupational health services for self-employed farmers;

- (b) progressive development of procedures for including self-employed farmers in the recording and notification of occupational accidents and diseases; and
- (c) development of guidelines, educational programmes and materials and appropriate advice and training for self-employed farmers covering, inter alia:
  - (i) their safety and health and the safety and health of those working with them concerning work-related hazards, including the risk of musculoskeletal disorders, the selection and use of chemicals and of biological agents, the design of safe work systems and the selection, use and maintenance of personal protective equipment, machinery, tools and appliances; and
  - (ii) the prevention of children from engaging in hazardous activities.

14. Where economic, social and administrative conditions do not permit the inclusion of self-employed farmers and their families in a national or voluntary insurance scheme, measures should be taken by Members for their progressive coverage to the level provided for in Article 21 of the Convention. This could be achieved by means of:

- (a) developing special insurance schemes or funds; or
- (b) adapting existing social security schemes.

15. In giving effect to the above measures concerning self-employed farmers, account should be taken of the special situation of:

- (a) small tenants and sharecroppers;
- (b) small owner-operators;
- (c) persons participating in agricultural collective enterprises, such as members of farmers' cooperatives;
- (d) members of the family as defined in accordance with national law and practice;
- (e) subsistence farmers; and
- (f) other self-employed workers in agriculture, according to national law and practice.

## **Appendix II**

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**Report form sent to member  
States and social partners**

**Appl. 19**  
**C.187, R. 197, C.167, R.175, C.176, R.183, C.184, R.192**

INTERNATIONAL LABOUR OFFICE

REPORTS ON  
UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

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

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REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

**PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY  
AND HEALTH CONVENTION, 2006 (No. 187)**

**PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY  
AND HEALTH RECOMMENDATION, 2006 (No. 197)**

**SAFETY AND HEALTH IN CONSTRUCTION CONVENTION, 1988 (No. 167)**

**SAFETY AND HEALTH IN CONSTRUCTION RECOMMENDATION, 1988 (No. 175)**

**SAFETY AND HEALTH IN MINES CONVENTION, 1995 (No. 176)**

**SAFETY AND HEALTH IN MINES RECOMMENDATION, 1995 (No. 183)**

**SAFETY AND HEALTH IN AGRICULTURE CONVENTION, 2001 (No. 184)**

**SAFETY AND HEALTH IN AGRICULTURE RECOMMENDATION, 2001 (No. 192)**

GENEVA

2015

## INTERNATIONAL LABOUR OFFICE

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*Article 19 of the Constitution of the International Labour Organisation 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 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 report form. 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 29 February 2016, in accordance with article 19 of the Constitution of the International Labour Organisation by the Government of ....., on the position of national law and practice in regard to matters dealt with in the instruments referred to in the following questionnaire.



## Article 19 report form concerning occupational safety and health instruments

Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)

Safety and Health in Construction Convention, 1988 (No. 167), and Safety and Health in Construction Recommendation, 1988 (No. 175)

Safety and Health in Mines Convention, 1995 (No. 176), and Safety and Health in Mines Recommendation, 1995 (No. 183)

Safety and Health in Agriculture Convention, 2001 (No. 184), and Safety and Health in Agriculture Recommendation, 2001 (No. 192) <sup>1</sup>

The following questions relate to issues covered by Conventions Nos 167, 176, 184 and 187 and Recommendations Nos 175, 183, 192 and 197. **As appropriate, please give a specific reference (web link) or include information relating to the provisions of the relevant legislation, regulations and policies, as well as electronic copies thereof.**

PART I. LEGAL AND POLICY FRAMEWORK	
<p>1. Please indicate whether a coherent national policy has been formulated with respect to occupational safety and health in:</p> <p>(a) general;</p> <p>(b) mining;</p> <p>(c) agriculture.</p> <p>If so, please provide detailed information in this regard, indicating if measures have been taken to implement and periodically review such policies.</p>	<p>Arts 1(a) and 3 of C.187; Para. 1 of R.197; Art. 3 of C.176; Para. 3(1) of R.183; Art. 4 of C.184; Para. 3 of R.192</p>
<p>2. Please provide information on measures taken, if any, to establish, maintain, progressively develop and periodically review a national system for occupational safety and health.</p>	<p>Art. 4 of C.187; Paras 2–6 of R.197.</p>
<p>3(i) Please indicate any relevant provisions of existing national laws and regulations related to occupational safety and health in:</p> <p>(a) general;</p> <p>(b) construction;</p> <p>(c) mining;</p> <p>(d) agriculture.</p> <p>(ii) Please indicate if this legislation excludes from its scope of application:</p> <p>(a) branches or particular undertakings with respect to construction, mining or agriculture;</p> <p>(b) categories of workers with respect to agriculture.</p> <p>If so, please indicate the reasons for these exclusions.</p> <p>In addition, with respect to mining and agriculture, please provide information on any plans for progressively covering all branches and categories of workers.</p>	<p>Art. 4(2)(a) of C.187; Art. 4 of C.167; Art. 4 of C.176; Art. 4(2) of C.184.</p> <p>Art. 1(2) of C.167; Art. 2(2) of C.176; Art. 3(1) of C.184.</p>

<sup>1</sup> Governments of countries which have ratified one or several of the Conventions and from which a report is due under article 22 of the Constitution will use the present form only with regard to the Conventions not ratified, if any, and the Recommendations. It will not be necessary to repeat information already provided in connection with the Conventions ratified. Part VII of the report form contains questions that are addressed to all member States.

Report form

<p>8. With respect to situations where two or more employers undertake activities at one work site:</p> <p>(i) Please provide information on measures taken, if any, to ensure cooperation between the employers on health and safety matters in:</p> <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul> <p>(ii) Please also provide information on measures taken, if any, to ensure the allocation, among the employers, of primary responsibility for the application of safety and health measures at the work site in:</p> <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining.</li> </ul>	<p>Art. 8(1) of C.167; Para. 5 of R.175; Art. 12 of C.176; Art. 6(2) of C.184.</p>
<p>9. Please describe any employers' obligations in situations of imminent and serious danger to safety and health, indicating if this includes an obligation to stop operations and evacuate workers, particularly in:</p> <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul>	<p>Art. 12(2) of C.167; Art. 7(i) of C.176; Art. 7(c) of C.184.</p>
<p>10(i) Please describe, in law and practice, as far as it exists, the right and duty of workers with regard to participation in the application and review of safety and health measures, including with respect to:</p> <ul style="list-style-type: none"> <li>– complying with prescribed health and safety measures;</li> <li>– selecting health and safety representatives;</li> <li>– the immediate reporting of situations which they believe could present a risk to safety and health.</li> </ul> <p>(ii) Please provide information on any national laws, regulations or other measures relating to the right of workers to remove themselves from danger when they have reasonable justification to believe there is an imminent and serious risk to their safety and health.</p>	<p>Art. 1(d) of C.187; Arts 10 and 11 of C.167; Paras 6(a) and 11 of R.175; Arts 13 and 14 of C.176; Paras 26–28 and 31(a) of R.183; Art. 8 of C.184.</p> <p>Art. 12(1) of C.167; Art. 13(1)(e) of C.176; Art. 8(1)(c) of C.184.</p>
<b>PART IV. PREVENTION AND PROTECTION MEASURES</b>	
<p>11(i) Please describe any measures taken to develop a national preventative safety and health culture, including:</p> <ul style="list-style-type: none"> <li>– measures taken to provide adequate occupational safety and health education and training to workers;</li> <li>– measures that seek to ensure that workers are informed of safety and health hazards associated with their work, indicating the relevant provisions in laws and regulations.</li> </ul> <p>(ii) Please provide, in particular, information on such measures taken in:</p> <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul> <p>(iii) In addition, please provide information on occupational safety and health education and training for management, supervisors and government officials responsible for safety and health.</p>	<p>Arts 1(d), 3(3) and 4(3)(c) of C.187; Para. 5 of R.197; Art. 33 of C.167; Para. 44 of R.175; Arts 9(a), 10(a) and 13(1)(c) of C.176; Paras 8(d) and (j), 19, 26 and 30(2) of R.183; Arts 7(b), 8(1)(a), 9(2) and (3) and 12(b) of C.184; Paras 3(2)(c), 5(b)(iii), 7(2)(e), 8(j) of R.192.</p> <p>Para. 5(b) of R.197.</p>

12. Please indicate any measures taken to ensure that safety and health is taken into account in the: <ul style="list-style-type: none"> <li>– design and planning of a construction project;</li> <li>– design and construction of mines.</li> </ul>	Art. 9 of C.167; Para. 7 of R.175. Art. 7(a) of C.176.
13. Please provide information on any safety and health requirements related to the design, maintenance and use of machinery and equipment, indicating the relevant provisions in laws and regulations, particularly in: <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul>	Arts 15, 16 and 17 of C.167; Para. 8 of R.175; Para. 7 of R.183; Art. 9 of C.184.
14. Please describe any measures taken to promote the assessment of occupational risks and hazards in: <ul style="list-style-type: none"> <li>(a) general;</li> <li>(b) construction;</li> <li>(c) mining;</li> <li>(d) agriculture.</li> </ul>	Art. 3(3) of C.187; Art. 4 of C.167; Art. 6 of C.176; Para. 12 of R.183; Art. 7(a) of C.184; Paras 4(2) and 5(b) of R.192.
15(i) Please provide information on any measures taken, in law and practice, aimed at minimizing or eliminating risks to workers.  (ii) Please also provide this information specifically concerning risks arising from exposure to physical, chemical and biological hazards in: <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul>	Art. 5(2)(b) of C.187; Art. 28(1) of C.167; Paras 41 and 48 of R.175; Art. 9(b) of C.176; Para. 20 of R.183; Arts 11–14 of C.184; Paras 7 and 8 of R.192.
16. Please describe any existing health and safety requirements related to the handling and disposal of hazardous substances and waste in: <ul style="list-style-type: none"> <li>(a) construction;</li> <li>(b) mining;</li> <li>(c) agriculture.</li> </ul>	Art. 28(4) of C.167; Para. 41(3) of R.175; Art. 5(4)(d) of C.176; Paras 6(c) and 20(l) of R.183; Arts 12(c) and 13 of C.184; Paras 7(2)(c) and 8(h) and (i) of R.192.
17. Please indicate whether employers are required to provide workers with personal protective equipment and clothing, and if so, please provide information concerning the implementation in practice of this requirement. Please also indicate whether: <ul style="list-style-type: none"> <li>– such equipment and clothing shall be provided at no cost to the worker;</li> <li>– employers are required to provide and maintain adequate self-rescue respiratory devices for workers in underground mines.</li> </ul>	Art. 30(1) of C.167; Para. 14 of R.175; Arts 5(4)(b), 6(d) and 9(c) of C.176; Paras 21(b) and 22 of R.183; Art. 9(1) of C.184; Para. 7(2)(a) of R.192.
18. Please describe any requirements related to accidents and emergencies including: <ul style="list-style-type: none"> <li>– first aid facilities and access to medical attention for workers who have suffered from an injury or illness;</li> <li>– with respect to mining, emergency response plans and measures related to mine rescue, indicating any relevant legislative provisions.</li> </ul>	Art. 31 of C.167; Paras 49 and 50 of R.175; Arts 5(4)(a), 8 and 9(d) of C.176; Para. 8 of R.183; Para. 5(c) of R.192.

19. Please provide information on any measures taken to ensure the provision of an adequate supply of safe drinking water and adequate welfare facilities at workplaces, including facilities for taking meals, sanitary facilities and facilities for changing (indicating if separate facilities are provided for women and men), particularly in: (a) construction; (b) mining; (c) agriculture.	Art. 32 of C.167; Paras 51 and 52 of R.175; Art. 5(4)(e) of C.176; Para. 25 of R.183; Art. 19(a) of C.184; Para. 10 of R.192.
20. Please describe any measures taken to provide temporary and seasonal workers in agriculture the same safety and health protection as those accorded to comparable permanent workers.	Art. 17 of C.184.
21. Please indicate any measures that take into account the special needs of women agricultural workers, in relation to pregnancy, breastfeeding and reproductive health.	Art. 18 of C.184; Paras 4(3) and 11 of R.192.
<b>PART V. RECORDING, NOTIFICATION AND STATISTICS</b>	
22. Please provide information on any existing system for the notification and recording of occupational accidents and diseases.	Art. 4(3)(f) of C.187; Art. 34 of C.167; Arts 5(2)(c) and 10(e) of C.176; Paras 3(2)(b) and 5(d) of R.192.
23. Please describe any mechanisms for the collection, analysis and exchange of data on occupational injuries and diseases.	Art. 4(3)(f) of C.187; Para. 5(d) of R.197.
24. Please provide any available statistical data on occupational safety and health, including with specific reference to the construction, mining and agricultural sectors, such as information on the number and nature of contraventions reported and <i>the resulting action taken</i> as well as <i>the number, nature and cause of occupational accidents and diseases reported</i> .	C.187; C.167; C.176; C.184.
<b>PART VI. ENFORCEMENT</b>	
25. Please describe any measures taken to ensure compliance with national laws and regulations on occupational safety and health in: (a) general; (b) construction; (c) mining; (d) agriculture.  In this regard, please provide specific information on the: – functioning of a labour inspection system for the effective protection of workers; – provision of penalties and application thereof; – provision and application of corrective measures (indicating, with respect to only (c) and (d) if this includes the suspension of activities on safety and health grounds).	Art. 4(2)(c) of C.187; Art. 35 of C.167; Para. 4 of R.183; Arts 5(2)(b), 5(2)(e), 6(a) and 16 of C.176; Arts 4(3) and 5 of C.184; Para. 1 of R.192.

### PART VII. IMPACT OF ILO INSTRUMENTS

26. Please indicate whether any modifications have been made to national legislation or practice with a view to giving effect to all or some of the provisions of the Conventions or of the Recommendations. Please state also whether it is intended to adopt measures to give further effect to the provisions of the Conventions or of the Recommendations, including ratification.	
27. Please identify any obstacles impeding or delaying ratification of the Conventions. Please indicate any measures taken or envisaged to overcome these obstacles.	
28. If your country is a federal State: (a) please indicate whether the provisions of the Conventions or of the Recommendations 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 provide the information specified in Parts I–VII of this form; (c) where action by the constituent unit is regarded as appropriate, please supply general information corresponding to Parts I–VII of the form. Please indicate also any arrangements that 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 Conventions and the Recommendations, giving a general indication of any results achieved through such action.	
29. 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 ILO.	
30. Please state whether you have received from the organizations of employers and 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.	
<h3>POSSIBLE NEEDS FOR STANDARD-RELATED ACTION AND FOR TECHNICAL COOPERATION</h3>	
31. What suggestions would your country wish to make concerning possible standard-related action, including consolidation, pertaining to occupational safety and health to be taken by the ILO?	
32. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the instruments in question? If this is the case, what has been the effect of this support? If not, how could the ILO best provide appropriate assistance within its mandate to support country efforts in the area of occupational safety and health, including in the construction, mining and agriculture sectors?  What are your country's needs for future policy advisory support and technical cooperation to give effect to the objectives of the instruments in question?	

## Appendix III

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### Governments that provided reports

Albania	Germany	Peru
Algeria	Greece	Philippines
Antigua and Barbuda	Guatemala	Poland
Argentina	Honduras	Portugal
Australia	Hungary	Qatar
Austria	Iceland	Romania
Azerbaijan	India	Russian Federation
Bahrain	Indonesia	Saint Vincent and the Grenadines
Bangladesh	Iraq	Saudi Arabia
Barbados	Israel	Senegal
Belarus	Italy	Seychelles
Belgium	Japan	Singapore
Bosnia and Herzegovina	Kazakhstan	Slovakia
Brazil	Kenya	Slovenia
Bulgaria	Korea, Republic of	South Africa
Burkina Faso	Latvia	Spain
Cambodia	Lithuania	Sri Lanka
Cameroon	Luxembourg	Sudan
Canada	Madagascar	Suriname
Chile	Mali	Sweden
China	Malta	Switzerland
Colombia	Mauritania	Syrian Arab Republic
Costa Rica	Mauritius	Tanzania, United Republic of
Croatia	Mexico	The former Yugoslav Republic of Macedonia
Cuba	Moldova, Republic of	Togo
Cyprus	Montenegro	Trinidad and Tobago
Czech Republic	Morocco	Tunisia Turkey
Denmark	Myanmar	Turkmenistan
Dominican Republic	Namibia	Uganda Ukraine
Ecuador	Netherlands	United Kingdom
Egypt	New Zealand	United States
El Salvador	Nicaragua	Uruguay
Estonia	Norway	Uzbekistan
Ethiopia	Oman	Venezuela, Bolivarian Republic of
Finland	Pakistan	Viet Nam
France	Panama	Zimbabwe
Georgia	Paraguay	

## Appendix IV

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### Workers' and employers' organizations that provided observations

#### Workers' organizations

##### Argentina

- Argentine Building Workers Union (UOCRA)
- Confederation of Workers of Argentina (CTA Autonomous)
- General Confederation of Labour of the Argentine Republic (CGT RA)

##### Australia

- Australian Council of Trade Unions (ACTU)

##### Austria

- Austrian Chamber of Labour (AK)

##### Brazil

- General Union of Workers (UGT)

##### Canada

- Canadian Labour Congress (CLC)
- Confederation of National Trade Unions (CSN)

##### China

- All-China Federation of Trade Unions (ACFTU)

##### Colombia

- Confederation of Workers of Colombia (CTC)
- Single Confederation of Workers of Colombia (CUT)

##### Dominican Republic

- Autonomous Confederation of Workers' Unions (CASC)
- National Confederation of Dominican Workers (CNTD)
- National Confederation of Trade Union Unity (CNUS)

##### Finland

- Central Organization of Finnish Trade Unions (SAK)
- Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Finnish Confederation of Professionals (STTK)

##### Gabon

- Confederation of Gabonese Free Trade Unions (CGSL)

##### Georgia

- Georgian Trade Unions Confederation (GTUC)

##### Japan

- Japanese Trade Union Confederation (JTUC-RENGO)

##### Korea, Republic of

- Federation of Korean Trade Unions (FKTU)

##### Malaysia

- Union of Forestry Department Employees Sarawak (UFES)



## **Malta**

- General Workers' Union (GWU)

## **Mexico**

- National Union of Miners, Metalworkers and Allied Workers of the Republic of Mexico (SNTMMSSRM)

## **Moldova, Republic of**

- National Confederation of Trade Unions of Moldova (CNSM)

## **Netherlands**

- Netherlands Trade Union Confederation (FNV)

## **New Zealand**

- New Zealand Council of Trade Unions (NZCTU)

## **Panama**

- National Confederation of United Independent Unions (CONUSI)

## **Poland**

- All-Poland Trade Unions Alliance (OPZZ)

## **Portugal**

- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)

## **Spain**

- General Union of Workers (UGT)
- Trade Union Confederation of Workers' Commissions (CCOO)

## **Sweden**

- Swedish Confederation for Professional Employees (TCO)
- Swedish Confederation of Professional Associations (SACO)
- Swedish Trade Union Confederation (LO)

## **Switzerland**

- Swiss Federation of Trade Unions (USS/SGB)
- Swiss Union of Agricultural Workers (USP)

## **Ukraine**

- Building and Wood Workers' International (BWI)
- Construction and Building Materials Industry Workers' Union of Ukraine (CBMI)

## **United States**

- American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

## **Employers' organizations**

- International Organisation of Employers (IOE)

## **Australia**

- Australian Chamber of Commerce and Industry (ACCI)

## **Austria**

- Austrian Federal Economic Chamber (WKÖ)

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## Bangladesh

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- Bangladesh Employers' Federation (BEF)

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## Brazil

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- National Confederation of Industry (CNI)

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## Chile

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- Confederation of Production and Commerce (CPC)
- International Organisation of Employers (IOE)

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## Colombia

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- National Employers Association of Colombia (ANDI)

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## Costa Rica

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- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP)

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## Dominican Republic

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- Employers' Confederation of the Dominican Republic (COPARDOM)
- International Organisation of Employers (IOE)

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## Finland

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- Confederation of Finnish Industries (EK)

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## Germany

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- Confederation of German Employers' Associations (BDA)
- Federation of the German Construction Industry (HDB)
- German Construction Federation (ZDB)
- International Organisation of Employers (IOE)

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## Korea, Republic of

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- Korea Employers' Federation (KEF)

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## Mexico

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- Confederation of Employers of the Mexican Republic (COPARMEX)
- International Organisation of Employers (IOE)

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## New Zealand

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- Business New Zealand

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## Sudan

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- Sudanese Businessmen and Employers Federation (SBEF)

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## National bipartite bodies

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## Belgium

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- National Labour Council (CNT)

## Appendix V

### Ratification status (Conventions Nos 167, 176, 184 and 187)

Members	Convention No. 167	Convention No. 176	Convention No. 184	Convention No. 187
Afghanistan	----	----	----	----
Albania	Ratified 24/04/2014	Ratified 03/03/2003	----	Ratified 24/04/2014
Algeria	Ratified 06/06/2006	----	----	----
Angola	----	----	----	----
Antigua and Barbuda	----	----	----	----
Argentina	----	----	Ratified 26/06/2006	Ratified 13/01/2014
Armenia	----	Ratified 27/04/1999	----	----
Australia	----	----	----	----
Austria	----	Ratified 26/05/1999	----	Ratified 20/05/2011
Azerbaijan	----	----	----	----
Bahamas	----	----	----	----
Bahrain	----	----	----	----
Bangladesh	----	----	----	----
Barbados	----	----	----	----
Belarus	Ratified 21/11/2001	----	----	----
Belgium	Ratified 08/06/2016	Ratified 02/10/2012	Ratified 10/11/2015	----
Belize	----	----	----	----
Benin	----	----	----	----
Bolivia, Plurinational State of	Ratified 10/02/2015	----	----	----
Bosnia and Herzegovina	----	Ratified 04/02/2010	Ratified 18/01/2010	Ratified 09/03/2010
Botswana	----	Ratified 05/06/1997	----	----
Brazil	Ratified 19/05/2006	Ratified 18/05/2006	----	----
Brunei Darussalam	----	----	----	----
Bulgaria	----	----	----	----
Burkina Faso	----	----	Ratified 28/10/2009	Ratified 13/10/2016
Burundi	----	----	----	----
Cabo Verde	----	----	----	----
Cambodia	----	----	----	----
Cameroon	----	----	----	----
Canada	----	----	----	Ratified 13/06/2011
Central African Republic	----	----	----	----
Chad	----	----	----	----

Members	Convention No. 167	Convention No. 176	Convention No. 184	Convention No. 187
Chile	----	----	----	Ratified 27/04/2011
China	Ratified 07/03/2002	----	----	----
Colombia	Ratified 06/09/1994	----	----	----
Comoros	----	----	----	----
Congo	----	----	----	----
Cook Islands	----	----	----	----
Costa Rica	----	----	----	----
Côte d'Ivoire	----	----	----	Ratified 01/04/2016
Croatia	----	----	----	----
Cuba	----	----	----	Ratified 05/08/2008
Cyprus	----	----	----	Ratified 14/05/2009
Czech Republic	Ratified 01/01/1993	Ratified 09/10/2000	----	Ratified 13/10/2008
Democratic Republic of the Congo	----	----	----	----
Denmark	Ratified 10/07/1995	----	----	Ratified 28/01/2009
Djibouti	----	----	----	----
Dominica	----	----	----	----
Dominican Republic	Ratified 04/06/1998	----	----	Ratified 15/09/2015
Ecuador	----	----	----	----
Egypt	----	----	----	----
El Salvador	----	----	----	----
Equatorial Guinea	----	----	----	----
Eritrea	----	----	----	----
Estonia	----	----	----	----
Ethiopia	----	----	----	----
Fiji	----	----	Ratified 28/05/2008	----
Finland	Ratified 23/01/1997	Ratified 09/06/1997	Ratified 21/02/2003	Ratified 26/06/2008
France	----	----	----	Ratified 29/10/2014
Gabon	Ratified 28/07/2015	----	----	----
Gambia	----	----	----	----
Georgia	----	----	----	----
Germany	Ratified 18/11/1993	Ratified 06/09/1998	----	Ratified 21/07/2010
Ghana	----	----	Ratified 06/06/2011	----
Greece	----	----	----	----
Grenada	----	----	----	----
Guatemala	Ratified 07/10/1991	----	----	----
Guinea	----	----	----	----
Guinea - Bissau	----	----	----	----
Guyana	----	----	----	----
Haiti	----	----	----	----
Honduras	----	----	----	----
Hungary	Ratified 22/05/1989	----	----	----
Iceland	----	----	----	----
India	----	----	----	----

Members	Convention No. 167	Convention No. 176	Convention No. 184	Convention No. 187
Indonesia	----	----	----	Ratified 31/08/2015
Iran, Islamic Republic of	----	----	----	----
Iraq	Ratified 17/09/1990	----	----	Ratified 21/12/2015
Ireland	----	Ratified 09/06/1998	----	----
Israel	----	----	----	----
Italy	Ratified 12/02/2003	----	----	----
Jamaica	----	----	----	----
Japan	----	----	----	Ratified 24/07/2007
Jordan	----	----	----	----
Kazakhstan	Ratified 18/06/2008	----	----	Ratified 03/02/2015
Kenya	----	----	----	----
Kiribati	----	----	----	----
Korea, Republic of	----	----	----	Ratified 20/02/2008
Kuwait	----	----	----	----
Kyrgyzstan	----	----	Ratified 10/05/2004	----
Lao People's Democratic Republic	----	----	----	----
Latvia	----	----	----	----
Lebanon	----	Ratified 23/02/2000	----	----
Lesotho	Ratified 27/01/1998	----	----	----
Liberia	----	----	----	----
Libya	----	----	----	----
Lithuania	----	----	----	----
Luxembourg	Ratified 08/04/2008	Ratified 08/04/2008	Ratified 08/04/2008	----
Madagascar	----	----	----	----
Malawi	----	----	----	----
Malaysia	----	----	----	Ratified 07/06/2012
Maldives, Republic of	----	----	----	----
Mali	----	----	----	----
Malta	----	----	----	----
Marshall Islands	----	----	----	----
Mauritania	----	----	----	----
Mauritius	----	----	----	Ratified 19/11/2012
Mexico	Ratified 05/10/1990	----	----	----
Moldova, Republic of	----	----	Ratified 20/09/2002	Ratified 12/02/2010
Mongolia	----	Ratified 26/11/2015	----	----
Montenegro	Ratified 18/09/2015	----	----	Ratified 18/09/2015
Morocco	----	Ratified 04/06/2013	----	----
Mozambique	----	----	----	----
Myanmar	----	----	----	----
Namibia	----	----	----	----
Nepal	----	----	----	----
Netherlands	----	----	----	----
New Zealand	----	----	----	----

Members	Convention No. 167	Convention No. 176	Convention No. 184	Convention No. 187
Nicaragua	----	----	----	----
Niger	----	----	----	Ratified 19/02/2009
Nigeria	----	----	----	----
Norway	Ratified 24/06/1991	Ratified 11/06/1999	----	Ratified 09/11/2015
Oman	----	----	----	----
Pakistan	----	----	----	----
Palau	----	----	----	----
Panama	Ratified 31/01/2008	----	----	----
Papua New Guinea	----	----	----	----
Paraguay	----	----	----	----
Peru	----	Ratified 19/06/2008	----	----
Philippines	----	Ratified 27/02/1998	----	----
Poland	----	Ratified 25/06/2001	----	----
Portugal	----	Ratified 25/03/2002	Ratified 08/11/2012	----
Qatar	----	----	----	----
Romania	----	----	----	----
Russian Federation	----	Ratified 19/07/2013	----	Ratified 24/02/2011
Rwanda	----	----	----	----
Saint Kitts and Nevis	----	----	----	----
Saint Lucia	----	----	----	----
Saint Vincent and the Grenadines	----	----	----	----
Samoa	----	----	----	----
San Marino	----	----	----	----
Sao Tome and Principe	----	----	Ratified 04/05/2005	----
Saudi Arabia	----	----	----	----
Senegal	----	----	----	----
Serbia	Ratified 16/09/2009	----	----	Ratified 16/09/2009
Seychelles	----	----	----	----
Sierra Leone	----	----	----	----
Singapore	----	----	----	Ratified 11/06/2012
Slovakia	Ratified 01/01/1993	Ratified 03/06/1998	Ratified 14/06/2002	Ratified 22/02/2010
Slovenia	----	----	----	Ratified 12/02/2014
Solomon Islands	----	----	----	----
Somalia	----	----	----	----
South Africa	----	Ratified 09/06/2000	----	----
South Sudan	----	----	----	----
Spain	----	Ratified 22/05/1997	----	Ratified 05/05/2009
Sri Lanka	----	----	----	----
Sudan	----	----	----	----
Suriname	----	----	----	----
Swaziland	----	----	----	----
Sweden	Ratified 07/10/1991	Ratified 09/06/1997	Ratified 09/06/2004	Ratified 10/07/2008
Switzerland	----	----	----	----

Members	Convention No. 167	Convention No. 176	Convention No. 184	Convention No. 187
Syrian Arab Republic	----	----	----	----
Tajikistan	----	----	----	----
Tanzania, United Republic of	----	----	----	----
Thailand	----	----	----	Ratified 23/03/2016
The former Yugoslav Republic of Macedonia	----	----	----	Ratified 03/10/2012
Timor-Leste	----	----	----	----
Togo	----	----	----	Ratified 30/03/2012
Tonga	----	----	----	----
Trinidad and Tobago	----	----	----	----
Tunisia	----	----	----	----
Turkey	Ratified 23/03/2015	Ratified 23/03/2015	----	Ratified 16/01/2014
Turkmenistan	----	----	----	----
Tuvalu	----	----	----	----
Uganda	----	----	----	----
Ukraine	----	Ratified 15/06/2011	Ratified 01/12/2009	----
United Arab Emirates	----	----	----	----
United Kingdom	----	----	----	Ratified 29/05/2008
United States	----	Ratified 09/02/2001	----	----
Uruguay	Ratified 25/05/2005	Ratified 05/06/2014	Ratified 25/05/2005	----
Uzbekistan	----	----	----	----
Vanuatu	----	----	----	----
Venezuela, Bolivarian Republic of	----	----	----	----
Viet Nam	----	----	----	Ratified 16/05/2014
Yemen	----	----	----	----
Zambia	----	Ratified 04/01/1999	----	Ratified 23/12/2013
Zimbabwe	----	Ratified 09/04/2003	----	----



