



SIXTH ITEM ON THE AGENDA

Form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): The Occupational Safety and Health Convention, 1981 (No. 155), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Occupational Safety and Health Recommendation, 1981 (No. 164)

Introduction

1. In accordance with the decision taken by the Governing Body at its 297th Session (November 2006), the Committee is requested to examine the appended draft form to be used as a basis for the reports on the abovementioned Convention, Recommendation and Protocol which member States will be required to submit in accordance with the recommendations made by the Committee. The report form¹ approved by the Governing Body will also be made available on the ILO's web site, and member States will be encouraged to submit their replies in electronic format.
2. *The Committee is invited to decide on the report form for the 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, and to submit this report form to the Governing Body for approval.*

Geneva, 15 February 2007.

Point for decision: Paragraph 2.

¹ The appendix contains the text of the report form, including an annex listing instruments adopted since 1919.

Appendix

Appl. 19
C. 155, R. 164, P. 155

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

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

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (No. 155)

OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION, 1981 (No. 164)

**PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND
HEALTH CONVENTION, 1981**

Geneva

2007

INTERNATIONAL LABOUR OFFICE

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 form of report. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 1 April 2008, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to the matters dealt with in the following instruments:¹

OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (No. 155)**OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION, 1981 (No. 164)****PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981**

The General Survey on the above instruments will seek to provide an overview of existing occupational safety and health law and practice in ILO member States, and to show the extent to which effect has been given, or is proposed to be given, to the provisions of the instruments. The survey will also examine specific articles or other factors that may represent an obstacle for or that may delay ratification of the Convention and the Protocol, as well as possible measures to overcome or remove these obstacles.

The report form is presented as a single text. For ease of reference, the particular provisions of the individual instruments relevant to each question are noted in square brackets. The report form is available on the ILO's web site and member States are encouraged to send their report in electronic form, including any attachments.² Although attachments are welcome, it would be greatly appreciated if member States would summarize their replies to questions, to the extent possible, or clearly identify the relevant portion of any attachment supplied.

Several aspects of occupational safety and health go beyond the immediate competence of the ministry responsible for labour, and the preparation of a full report on the abovementioned instruments may require consultation with the other ministries or government or private agencies concerned, as appropriate.

GENERAL

- I. Please provide information on the extent of *coverage of national laws and regulations* on occupational safety and health (OSH). If coverage is limited in any respect, please indicate to what extent and, in particular, which branches of economic activity or categories of workers are excluded and provide details regarding:
 - (a) the exclusions and the reasons therefore;**
 - (b) what steps, if any, are envisaged or being taken with a view to extend the scope of national laws and regulations on OSH to those branches of economic activity or categories of workers who have been excluded [Convention No. 155, Articles 1 and 2, Recommendation No. 164, Paragraph 1(2)].****

¹ The texts of the instruments are appended.

² The electronic responses should be sent to normes@ilo.org.

- II. Please indicate whether and in what way *representative organizations of employers and workers* are consulted or else take part in the decisions, implementation and review of matters related to OSH at the national level. Please provide details regarding their participation, as appropriate, in relation to matters provided for in:
- (a) the Convention [Convention No. 155, Articles 1(2), 2(2), 4(1), 8 and 15(1)];
 - (b) the Recommendation [Recommendation No. 164, Paragraph 6];
 - (c) the Protocol [Protocol to Convention No. 155, Article 2].
- III. As regards the *institutional arrangements*, please provide information on:
- (a) how responsibilities and functions in respect of OSH are distributed between public authorities, employers, workers and others [Convention No. 155, Article 6];
 - (b) how coordination and cooperation between these authorities and bodies are organized [Convention No. 155, Article 15.1, Recommendation No. 164, Paragraph 7];
 - (c) whether a central body has been established for the purpose of institutional coordination and cooperation [Convention No. 155, Article 15(2)].

ACTION AT THE NATIONAL LEVEL

- IV. Please provide information on whether a *national OSH policy* has been formulated. If so, please provide details on:
- (a) the *actual* scope and content of the national OSH policy [Convention No. 155, Articles 4, 5(a)–(d); and Recommendation No. 164, Paragraph 3];
 - (b) the extent to which the functions listed in the Convention [Convention No. 155, Article 11] and in the Recommendation [Recommendation No. 164, Paragraph 4] to give effect to the policy are progressively being carried out;
 - (c) the arrangements for periodic review of the national OSH policy [Convention No. 155, Articles 4 and 7], including information on whether and how account is taken in this context to experience and advances in science and technology [Recommendation No. 164, Paragraph 4(b)];
 - (d) to what extent other instruments on OSH are referred to in the development and application of the policy [Recommendation No. 164, Paragraph 19(1) and annex].
- V. Please provide information on the *enforcement* mechanisms of laws and regulations through inspection or other appropriate means and the type and level of *penalties* imposed for violations of OSH laws and regulations [Convention No. 155, Article 9].
- VI. Please provide information on requirements for *recording and notification* of occupational accidents and diseases [Convention No. 155, Article 11(c), and Protocol to Convention No. 155, Articles 1–4].

- VII. Please provide information on the publication of *statistics* on occupational accidents and diseases [Convention No. 155, Article 11(e)]. Please indicate, in particular, whether published statistics:
- (a) are representative of the country as a whole [Protocol to Convention No. 155, Article 6] and, if not, what sectors of the country are covered;
 - (b) include information not only on “occupational accidents” and “occupational diseases”, but also on “dangerous occurrences” and “commuting accidents”, as defined in the Protocol [Protocol to Convention No. 155, Article 6];
 - (c) use classification schemes compatible with the latest international schemes [see <http://unstats.un.org/unsd/cr/family1.asp>] such as those established under the auspices of the International Labour Organization [see <http://www.ilo.org/public/english/bureau/stat/class/index.htm>] [Protocol to Convention No. 155, Article 7].
- VIII. Please provide information on responsibilities placed, in law and in practice, on those who *design, manufacture, import, provide or transfer machinery, equipment or substances* for occupational use [Convention No. 155, Article 12], and on any intended extension of such responsibilities.
- IX. Please provide information on whether there exists in law and in practice *protection for workers from undue consequences* who remove themselves from a work situation, which they have reasonable justification to believe present an imminent and serious danger to their life or health [Convention No. 155, Article 13], or who make, in good faith, complaints about serious shortcomings regarding OSH [Recommendation No. 164, Paragraph 17].
- X. Please provide information on measures being taken or in place to *provide guidance and disseminate information* on applicable national legislation concerning OSH to employers, workers and their organizations as well as to all levels of education and training [Convention No. 155, Articles 10 and 14].

ACTION AT THE LEVEL OF UNDERTAKING

- XI. Please provide information on whether national laws and regulations or other measures provide for *employers’ duties and responsibilities* in the field of OSH. If so, please indicate their nature and extent by reference to the relevant provisions of the instruments [Convention No. 155, Articles 16 and 18, Recommendation No. 164, Paragraphs 10 and 14–15, and Protocol to Convention No. 155, Articles 3(a) and (d) and 4(a)].
- XII. Please provide information on the arrangements in place or being considered to ensure *collaboration and cooperation* in the field of OSH between:
- (a) management and workers and/or their representatives within the undertaking [Convention No. 155, Article 20, and Recommendation No. 164, Paragraph 12(1)];
 - (b) two or more undertakings engaged in activities simultaneously at one workplace [Convention No. 155, Article 17, and Recommendation No. 164, Paragraph 11].

- XIII. Please provide information on law and practice regarding the *responsibilities and participation* at the level of the undertaking in OSH matters of *workers, their representatives and their representative organizations* [Convention No. 155, Article 19, and Recommendation No. 164, Paragraphs 12(2) and 16].
- XIV. Please provide information on the *availability of OSH services and advice* [Recommendation No. 164, Paragraph 13].
- XV. Please indicate whether and, if so, how is it ensured that OSH measures do not involve any *expenditure for workers* [Convention No. 155, Article 21].

EFFECT GIVEN AND ENVISAGED AND RATIFICATION PROSPECTS

- XVI. With respect to the instruments you have not ratified, please provide information on:
- (a) whether any modifications have been made or are envisaged in national law and practice with a view to *giving effect* to certain provisions of either one of the three instruments;
 - (b) whether you have initiated or intend to initiate *ratification* procedures with respect to the Convention and/or the Protocol. With respect to each of the two instruments, please specify:
 - (i) whether any specific articles present an obstacle to ratification, if so, please specify;
 - (ii) whether there are other types of obstacles that prevent or delay ratification;
 - (iii) measures proposed to be taken to overcome or remove these obstacles.

CONSULTATIONS PURSUANT TO ARTICLE 23 OF THE CONSTITUTION

- XVII. Please indicate the *representative organizations of employers and workers* to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.³
- XVIII. Please state whether you have received from the organizations of employers or workers concerned any *observations* concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

³ Article 23, paragraph 2, of the Constitutions reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

DOCUMENTATION**XIX. Please provide**

- (a) *a list of relevant laws, regulations and other documents* on the matters dealt with in the Convention, Recommendation and Protocol, including codes of practice and other guides developed to facilitate the practical application of laws and regulations;
- (b) a copy of the *national OSH policy* if it is available in the form of a separate document or report, or as part of a document;
- (c) detailed information on how the enforcement system functions in practice including extracts from *inspection reports*, and, where such statistics exist, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, the number, nature and cause of the accidents reports, etc., court cases and national OSH statistics.

If the requested information has not already been supplied to the International Labour Office, please attach copies of them. Alternatively, please include references to publicly available web sites from where such laws and regulations may be downloaded electronically.

FEDERAL STATES

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

Convention No. 155**OCCUPATIONAL SAFETY AND HEALTH CONVENTION**

The General Conference of the International Labour Organisation,

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

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth 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 eighty-one the following Convention, which may be cited as the Occupational Safety and Health Convention, 1981:

PART I. SCOPE AND DEFINITIONS*Article 1*

1. This Convention applies to all branches of economic activity.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

Article 3

For the purpose of this Convention –

- (a) the term “branches of economic activity” covers all branches in which workers are employed, including the public service;
- (b) the term “workers” covers all employed persons, including public employees;
- (c) the term “workplace” covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) the term “regulations” covers all provisions given force of law by the competent authority or authorities;
- (e) the term “health”, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

PART II. PRINCIPLES OF NATIONAL POLICY*Article 4*

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. 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 minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Article 5

The policy referred to in Article 4 of this Convention shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:

- (a) design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);
- (b) relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers;
- (c) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;
- (d) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level;

- (e) the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of this Convention.

Article 6

The formulation of the policy referred to in Article 4 of this Convention shall indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice.

Article 7

The situation regarding occupational safety and health and the working environment shall be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

PART III. ACTION AT THE NATIONAL LEVEL

Article 8

Each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organisations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4 of this Convention.

Article 9

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.

2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.

Article 10

Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.

Article 11

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

- (a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the

safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;

- (b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;
- (f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

Article 12

Measures shall be taken, in accordance with national law and practice, with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use –

- (a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
- (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided;
- (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

Article 13

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

Article 14

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.

Article 15

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.

2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

PART IV. ACTION AT THE LEVEL OF THE UNDERTAKING

Article 16

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.

Article 17

Whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention.

Article 18

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements.

Article 19

There shall be arrangements at the level of the undertaking under which –

- (a) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;

- (b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;
- (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;
- (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;
- (e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;
- (f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Article 20

Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

Article 21

Occupational safety and health measures shall not involve any expenditure for the workers.

PART V. FINAL PROVISIONS

Article 22

This Convention does not revise any international labour Conventions or Recommendations.

Article 23

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

Article 24

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 25

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 26

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 27

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 28

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 29

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 25 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 30

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

Recommendation No. 164

OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION

The General Conference of the International Labour Organisation,

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

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Occupational Safety and Health Convention, 1981,

adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Occupational Safety and Health Recommendation, 1981:

I. SCOPE AND DEFINITIONS

1.

- (1) To the greatest extent possible, the provisions of the Occupational Safety and Health Convention, 1981, hereinafter referred to as the Convention, and of this Recommendation should be applied to all branches of economic activity and to all categories of workers.
- (2) Provision should be made for such measures as may be necessary and practicable to give self-employed persons protection analogous to that provided for in the Convention and in this Recommendation.

2. For the purpose of this Recommendation –

- (a) the term “branches of economic activity” covers all branches in which workers are employed, including the public service;
- (b) the term “workers” covers all employed persons, including public employees;
- (c) the term “workplace” covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) the term “regulations” covers all provisions given force of law by the competent authority or authorities;
- (e) the term “health”, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

II. TECHNICAL FIELDS OF ACTION

3. As appropriate for different branches of economic activity and different types of work and taking into account the principle of giving priority to eliminating hazards at their source, measures should be taken in pursuance of the policy referred to in Article 4 of the Convention, in particular in the following fields:

- (a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;
- (b) lighting, ventilation, order and cleanliness of workplaces;
- (c) temperature, humidity and movement of air in the workplace;
- (d) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their approval and transfer;
- (e) prevention of harmful physical or mental stress due to conditions of work;
- (f) handling, stacking and storage of loads and materials, manually or mechanically;
- (g) use of electricity;
- (h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues, and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
- (i) radiation protection;
- (j) prevention and control of, and protection against, occupational hazards due to noise and vibration;
- (k) control of the atmosphere and other ambient factors of workplaces;
- (l) prevention and control of hazards due to high and low barometric pressures;
- (m) prevention of fires and explosions and measures to be taken in case of fire or explosion;
- (n) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (o) 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;
- (p) first-aid treatment;
- (q) establishment of emergency plans;
- (r) supervision of the health of workers.

III. ACTION AT THE NATIONAL LEVEL

4. With a view to giving effect to the policy referred to in Article 4 of the Convention, and taking account of the technical fields of action listed in Paragraph 3 of this Recommendation, the competent authority or authorities in each country should –

- (a) issue or approve regulations, codes of practice or other suitable provisions on occupational safety and health and the working environment, account being taken of the links existing between safety and health, on the one hand, and hours of work and rest breaks, on the other;

- (b) from time to time review legislative enactments concerning occupational safety and health and the working environment, and provisions issued or approved in pursuance of clause (a) of this Paragraph, in the light of experience and advances in science and technology;
- (c) undertake or promote studies and research to identify hazards and find means of overcoming them;
- (d) provide information and advice, in an appropriate manner, to employers and workers and promote or facilitate co-operation between them and their organisations, with a view to eliminating hazards or reducing them as far as practicable; where appropriate, a special training programme for migrant workers in their mother tongue should be provided;
- (e) provide specific measures to prevent catastrophes, and to co-ordinate and make coherent the actions to be taken at different levels, particularly in industrial zones where undertakings with high potential risks for workers and the surrounding population are situated;
- (f) secure good liaison with the International Labour Occupational Safety and Health Hazard Alert System set up within the framework of the International Labour Organisation;
- (g) provide appropriate measures for handicapped workers.

5. The system of inspection provided for in paragraph 1 of Article 9 of the Convention should be guided by the provisions of the Labour Inspection Convention, 1947, and the Labour Inspection (Agriculture) Convention, 1969, without prejudice to the obligations thereunder of Members which have ratified these instruments.

6. As appropriate, the competent authority or authorities should, in consultation with the representative organisations of employers and workers concerned, promote measures in the field of conditions of work consistent with the policy referred to in Article 4 of the Convention.

7. The main purposes of the arrangements referred to in Article 15 of the Convention should be to –

- (a) implement the requirements of Articles 4 and 7 of the Convention;
- (b) co-ordinate the exercise of the functions assigned to the competent authority or authorities in pursuance of Article 11 of the Convention and Paragraph 4 of this Recommendation;
- (c) co-ordinate activities in the field of occupational safety and health and the working environment which are exercised nationally, regionally or locally, by public authorities, by employers and their organisations, by workers' organisations and representatives, and by other persons or bodies concerned;
- (d) promote exchanges of views, information and experience at the national level, at the level of an industry or that of a branch of economic activity.

8. There should be close co-operation between public authorities and representative employers' and workers' organisations, as well as other bodies concerned in measures for the formulation and application of the policy referred to in Article 4 of the Convention.

9. The review referred to in Article 7 of the Convention should cover in particular the situation of the most vulnerable workers, for example, the handicapped.

IV. ACTION AT THE LEVEL OF THE UNDERTAKING

10. The obligations placed upon employers with a view to achieving the objective set forth in Article 16 of the Convention might include, as appropriate for different branches of economic activity and different types of work, the following:

- (a) to provide and maintain workplaces, machinery and equipment, and use work methods, which are as safe and without risk to health as is reasonably practicable;
- (b) to give necessary instructions and training, taking account of the functions and capacities of different categories of workers;
- (c) to provide adequate supervision of work, of work practices and of application and use of occupational safety and health measures;
- (d) to institute organisational arrangements regarding occupational safety and health and the working environment adapted to the size of the undertaking and the nature of its activities;
- (e) to provide, without any cost to the worker, adequate personal protective clothing and equipment which are reasonably necessary when hazards cannot be otherwise prevented or controlled;
- (f) to ensure that work organisation, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health;
- (g) to take all reasonably practicable measures with a view to eliminating excessive physical and mental fatigue;
- (h) to undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with the foregoing clauses.

11. Whenever two or more undertakings engage in activities simultaneously at one workplace, they should collaborate in applying the provisions regarding occupational safety and health and the working environment, without prejudice to the responsibility of each undertaking for the health and safety of its employees. In appropriate cases, the competent authority or authorities should prescribe general procedures for this collaboration.

12.

- (1) The measures taken to facilitate the co-operation referred to in Article 20 of the Convention should include, where appropriate and necessary, the appointment, in accordance with national practice, of workers' safety delegates, of workers' safety and health committees, and/or of joint safety and health committees; in joint safety and health committees workers should have at least equal representation with employers' representatives.

- (2) Workers' safety delegates, workers' safety and health committees, and joint safety and health committees or, as appropriate, other workers' representatives should –
- (a) be given adequate information on safety and health matters, enabled to examine factors affecting safety and health, and encouraged to propose measures on the subject;
 - (b) be consulted when major new safety and health measures are envisaged and before they are carried out, and seek to obtain the support of the workers for such measures;
 - (c) be consulted in planning alterations of work processes, work content or organisation of work, which may have safety or health implications for the workers;
 - (d) be given protection from dismissal and other measures prejudicial to them while exercising their functions in the field of occupational safety and health as workers' representatives or as members of safety and health committees;
 - (e) be able to contribute to the decision-making process at the level of the undertaking regarding matters of safety and health;
 - (f) have access to all parts of the workplace and be able to communicate with the workers on safety and health matters during working hours at the workplace;
 - (g) be free to contact labour inspectors;
 - (h) be able to contribute to negotiations in the undertaking on occupational safety and health matters;
 - (i) have reasonable time during paid working hours to exercise their safety and health functions and to receive training related to these functions;
 - (j) have recourse to specialists to advise on particular safety and health problems.

13. As necessary in regard to the activities of the undertaking and practicable in regard to size, provision should be made for –

- (a) the availability of an occupational health service and a safety service, within the undertaking, jointly with other undertakings, or under arrangements with an outside body;
- (b) recourse to specialists to advise on particular occupational safety or health problems or supervise the application of measures to meet them.

14. Employers should, where the nature of the operations in their undertakings warrants it, be required to set out in writing their policy and arrangements in the field of occupational safety and health, and the various responsibilities exercised under these arrangements, and to bring this information to the notice of every worker, in a language or medium the worker readily understands.

15.

- (1) Employers should be required to verify the implementation of applicable standards on occupational safety and health regularly, for instance by environmental monitoring, and to undertake systematic safety audits from time to time.

-
- (2) Employers should be required to keep such records relevant to occupational safety and health and the working environment as are considered necessary by the competent authority or authorities; these might include records of all notifiable occupational accidents and injuries to health which arise in the course of or in connection with work, records of authorisation and exemptions under laws or regulations to supervision of the health of workers in the undertaking, and data concerning exposure to specified substances and agents.

16. The arrangements provided for in Article 19 of the Convention should aim at ensuring that workers –

- (a) take reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at work;
- (b) comply with instructions given for their own safety and health and those of others and with safety and health procedures;
- (c) use safety devices and protective equipment correctly and do not render them inoperative;
- (d) report forthwith to their immediate supervisor any situation which they have reason to believe could present a hazard and which they cannot themselves correct;
- (e) report any accident or injury to health which arises in the course of or in connection with work.

17. No measures prejudicial to a worker should be taken by reference to the fact that, in good faith, he complained of what he considered to be a breach of statutory requirements or a serious inadequacy in the measures taken by the employer in respect of occupational safety and health and the working environment.

V. RELATIONS TO EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

18. This Recommendation does not revise any international labour Recommendation.

19.

- (1) In the development and application of the policy referred to in Article 4 of the Convention and without prejudice to their obligations under Conventions they have ratified, Members should refer to the international labour Conventions and Recommendations listed in the Appendix.
- (2) The Appendix may be modified by the International Labour Conference, by a two-thirds majority, in connection with the future adoption or revision of any Convention or Recommendation in the field of safety and health and the working environment.

Annex

List of instruments concerning occupational safety and health and the working environment adopted by the International Labour Conference since 1919

Year	Convention	Recommendation
1921	13 White Lead (Painting)	
1929	27 Marking of Weight (Packages Transported by Vessels)	
1937	62 Safety Provisions (Building)	53 Safety Provisions (Building)
1946	73 Medical Examinations (Seafarers)	79 Medical Examination of Young Persons
	77 Medical Examination of Young Persons (Industry)	
	78 Medical Examination of Young Persons (Non-industrial Occupations)	
1947	81 Labour Inspection	81 Labour Inspection 82 Labour Inspection (Mining and Transport)
1949	92 Accommodation of Crews (Revised)	
1953		97 Protection of Workers' Health
1958		105 Ships' Medicine Chests 106 Medical Advice at Sea
1959	113 Medical Examination (Fishermen)	112 Occupational Health Services
1960	115 Radiation Protection	114 Radiation Protection
1963	119 Guarding of Machinery	118 Guarding of Machinery
1964	120 Hygiene (Commerce and Offices)	120 Hygiene (Commerce and Offices)
	121 Employment Injury Benefits	121 Employment Injury Benefits
1965	124 Medical Examination of Young Persons (Underground Work)	
1967	127 Maximum Weight	128 Maximum Weight
1969	129 Labour Inspection (Agriculture)	133 Labour Inspection (Agriculture)
1970	133 Accommodation of Crews (Supplementary Provisions)	140 Crew Accommodation (Air Conditioning)
	134 Prevention of Accidents (Seafarers)	141 Crew Accommodation (Noise Control) 142 Prevention of Accidents (Seafarers)
1971	136 Benzene	144 Benzene
1974	139 Occupational Cancer	147 Occupational Cancer
1977	148 Working Environment (Air Pollution, Noise and Vibration)	156 Working Environment (Air Pollution, Noise and Vibration)
1979	152 Occupational Safety and Health (Dock Work)	160 Occupational Safety and Health (Dock Work)

Protocol to Convention No. 155**PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND
HEALTH CONVENTION, 1981**

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 90th Session on 3 June 2002, and

Noting the provisions of Article 11 of the Occupational Safety and Health Convention, 1981, (hereinafter referred to as “the Convention”), which states in particular that:

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

...

- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;

...

- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work,

and

Having regard to the need to strengthen recording and notification procedures for occupational accidents and diseases and to promote the harmonization of recording and notification systems with the aim of identifying their causes and establishing preventive measures, and

Having decided upon the adoption of certain proposals with regard to the recording and notification of occupational accidents and diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a protocol to the Occupational Safety and Health Convention, 1981;

adopts this twentieth day of June two thousand and two the following Protocol, which may be cited as the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

DEFINITIONS

Article 1

For the purpose of this Protocol:

- (a) the term “occupational accident” covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;
- (b) the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activity;
- (c) the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;
- (d) the term “commuting accident” covers an accident resulting in death or personal injury occurring on the direct way between the place of work and:
 - (i) the worker’s principal or secondary residence; or
 - (ii) the place where the worker usually takes a meal; or
 - (iii) the place where the worker usually receives his or her remuneration.

II. SYSTEMS FOR RECORDING AND NOTIFICATION

Article 2

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

- (a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
- (b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

Article 3

The requirements and procedures for recording shall determine:

- (a) the responsibility of employers:
 - (i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;
 - (ii) to provide appropriate information to workers and their representatives concerning the recording system;

- (iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and
 - (iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;
- (b) the information to be recorded;
 - (c) the duration for maintaining these records; and
 - (d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

Article 4

The requirements and procedures for the notification shall determine:

- (a) the responsibility of employers:
 - (i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
 - (ii) to provide appropriate information to workers and their representatives concerning the notified cases;
- (b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;
- (c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and
- (d) the time limits for notification.

Article 5

The notification shall include data on:

- (a) the enterprise, establishment and employer;
- (b) if applicable, the injured persons and the nature of the injuries or disease; and
- (c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

III. NATIONAL STATISTICS

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

IV. FINAL PROVISIONS

Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force 12 months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member 12 months after the date on which its ratification has been registered by the Director-General and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 25, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its Article 25 by a Member which has ratified this Protocol shall ipso jure involve the denunciation of this Protocol.

3. Any denunciation of this Protocol in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

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 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, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall 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 acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 12

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