



International  
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## **Extending the scope of application of labour laws to the informal economy**



**Digest of comments  
of the ILO's supervisory bodies  
related to the informal economy**

EXTENDING THE SCOPE  
OF APPLICATION OF  
LABOUR LAWS TO THE  
INFORMAL ECONOMY

*Digest of comments  
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to the informal economy*

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# Table of contents

<b>Foreword</b> .....	5
<b>Introduction</b> .....	9
<b>Part I – Comments of the ILO’s supervisory bodies related to the informal economy</b> .....	11
I. The Committee of Experts’ observations and direct requests regarding the informal economy .....	13
A. Observations and direct requests linked to the fundamental Conventions .....	14
1. Freedom of association and collective bargaining:.....	14
2. Child labour: .....	16
3. Equality of opportunity and treatment: .....	31
B. Observations and direct requests linked to the priority Conventions .....	33
C. Observations and direct requests linked to technical Conventions.....	38
II. Cases of the Conference Committee on the Application of Standards related to the informal economy.....	42
III. Cases of the Committee on Freedom of Association related to the informal economy .....	58
IV. Comments related to the informal economy formulated by the CEACR in its various General Surveys.....	62
1. Freedom of association and collective bargaining.....	63
2. Employment policy .....	63
3. Labour inspection .....	72
4. Labour administration .....	73
5. Occupational safety and health .....	75
6. Vocational guidance and training .....	77

<b>Part II – List of Conventions and Recommendations relevant to the informal economy</b> .....	81
I. By Conventions .....	82
A. Fundamental Conventions: .....	82
B. Priority Conventions:.....	84
C. Other relevant Conventions: .....	86
1. Conventions containing provisions explicitly linked to the informal economy:.....	86
2. Conventions containing provisions implicitly linked to the informal economy:.....	88
3. Conventions related to workers who are present in the informal economy: .....	94
II. By Recommendations: .....	98
A. Recommendations containing provisions explicitly linked to the informal economy:.....	98
B. Recommendations containing provisions implicitly linked to the informal economy:.....	104
C. Recommendations related to workers who are present in the informal economy:.....	106
<b>Concluding remarks</b> .....	111
<b>Selected Bibliography</b> .....	113
<b>Annex</b> (Selection of National Laws and Regulations related to the informal economy).....	115

## Foreword

**T**he informal economy around the world today represents 52.2 per cent of total employment in Latin America, 78.2 per cent in Asia and 55.7 per cent in Africa.<sup>1</sup> The informal economy often absorbs workers who would otherwise be without work or income. This is especially the case, although not exclusively, in developing countries that have a large and rapidly growing labour force, for instance in countries where workers are made redundant following structural adjustment programmes. Most people enter the informal economy not by choice but out of a need to survive. Especially in circumstances of high unemployment, underemployment and poverty, the informal economy provides many with job and income generation outlets because of the relative ease of entry and low requirements for education, skills, technology and capital; but the jobs thus created often fail to meet the criteria of decent work. Workers in the informal economy have low incomes, low job security, no social protection and fewer possibilities for access to formal education and training.

In many countries, both developing and industrialized, there are linkages between changes in the organization of work and the growth of the informal economy. Workers and economic units are increasingly engaged in flexible work arrangements, including outsourcing and subcontracting; some are found at the periphery of the core enterprise or at the lowest end of the production chain, and have decent work deficits.

Such decent work deficits are most pronounced in the informal economy. From the perspective of unprotected workers, the negative aspects of work in the informal economy far outweigh its positive aspects. Workers in the informal economy are not recognized, registered or protected under labour legislation and are excluded from social protection. They are therefore not able to enjoy, exercise or defend their fundamental rights at work. Since they are normally not organized, they have little or no collective representation vis-à-vis employers or public authorities. Work in the informal economy is often characterized by small or undefined workplaces, unsafe and unhealthy working conditions, low levels of skills and productivity, low or irregular incomes, long working hours and lack of access to information, markets, finance, training and technology. Workers in the informal economy may be characterized by varying degrees of dependency and vulnerability.

It should be stressed that informality is principally a governance issue. The growth of the informal economy can sometimes be traced to inappropriate, ineffective, mis-

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<sup>1</sup> See *Globalization and informal jobs in developing countries*, A joint study of the International Labour Office and the Secretariat of the World Trade Organization, Geneva, 2009, p.27.

guided or badly designed or implemented social policies, often developed without tripartite consultations, and lack good governance for proper and effective implementation of policies and laws.

There is no doubt that tailor made and effective responses to the incidence and growth of the informal economy can only be devised at national and local levels with the full participation of the social partners and with special focus on vulnerable groups like women, children, migrant workers, indigenous peoples, rural workers, domestic workers, etc. International labour standards can provide the roadmap upon which such responses and appropriate policy mixes can be based. Such a roadmap would place emphasis on reinforcing the application of the eight fundamental Conventions which contain the basic enabling rights which are instrumental in progressively breaking away from the informal economy and poverty. It would also rely on the four priority Conventions – or governance instruments – which serve to promote active labour market policies, ensure appropriate law enforcement and oversight from the public authorities and encourage the common search for solutions through tripartite dialogue. The effective application of these twelve instruments at national level constitutes, in and of itself, the basic groundwork for a progressive exit from the informal economy. As the Director-General of the ILO stated already in his 1991 Report to the International Labour Conference, “the progressive application of labour standards does not, in all cases, have to wait until the informal sector starts to “catch up” with the modern sector. There are certain core standards that are so fundamental that their non-observance should not be tolerated”.<sup>2</sup> The 1998 Declaration on Fundamental Principles and Rights at Work confirmed these as comprising: freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation.

In addition to these basic instruments, certain additional standards are particularly relevant to the informal economy. Several of them contain essential policy tools to address the informal economy, others explicitly include within their scope of coverage workers in the informal economy while some others are intimately related to the condition of workers in this economy. Naturally, they overlap with the instruments which are an integral part of the recovery from the financial and economic crisis.

This digest, which is based on the wealth of the comments formulated by the supervisory bodies on the application of ILO instruments in the informal economy, should be seen as a first step to try to assess the extent of application of national laws, regulations and practice as well as to identify the obstacles to the application of relevant international labour standards to workers in that sector and how they can be addressed. It is produced by the International Labour Standards Department and I would like to thank Mr. Eric Gravel and Mr. Yann Tanguy for their contribution to this

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<sup>2</sup> *The Dilemma of the informal sector*, Report of the Director-General, International Labour Conference, 78<sup>th</sup> Session, ILO, Geneva, 1991, p.39.

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digest. It is to be hoped that it can serve as a useful tool to put forward proposals which may assist the tripartite constituents in developing laws, policies and institutions at the national level to extend protection to workers in the informal economy in order to facilitate the transition to formality.

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# Introduction

The belief that workers in the informal economy are outside the scope of application of international labour standards is a common misconception. In fact, most international labour standards are relevant to those in the informal economy. The conclusions adopted by the International Labour Conference in 2002 on decent work and the informal economy reflected the commitment of the ILO and its constituents to making decent work a reality for all workers and employers. These conclusions stated that “the promotion of decent work for all workers, women and men, irrespective of where they work, requires a broad strategy: realizing fundamental principles and rights at work; creating greater and better employment and income opportunities; extending social protection; and promoting social dialogue. These dimensions of decent work reinforce each other and comprise an integrated poverty reduction strategy”.<sup>3</sup>

The present digest is intended as a tool to reflect on the fact that while there is a broad consensus that the rights covered by the eight fundamental Conventions represent the minimum social floor that should apply to all workers regardless of their working status in the formal and/or informal economy, other standards related for instance to employment policy, social security protection, occupational safety and health, protection of wages, vocational guidance and training, labour inspection or labour administration are also relevant to people in the informal economy. This compilation of principles and comments formulated by various bodies of the ILO’s supervisory system, namely the Committee of Experts on the Application of Conventions and Recommendations (through its regular observations and direct requests to Governments as well as through its General Surveys), the Conference Committee on the Application of Standards and the Committee on Freedom of Association, is by no means an exhaustive enumeration of how the supervisory bodies have taken into account or reflected on the realities of workers in the informal economy through their respective comments. It only provides an overview of the most relevant of these comments. It should also be stressed that the reference to workers in the informal economy by the supervisory bodies of the ILO translates a new evolution in the way this issue has been addressed by the supervisory system in recent years. All the principles and comments which appear in this digest have been taken from the official reports published every year by these bodies.

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<sup>3</sup> See Conclusions concerning decent work and the informal economy, International Labour Conference, 90<sup>th</sup> Session, ILO, Geneva, 2002, *Record of Proceedings*, vol. II, p.25/53, para.2.



# PART I

## Comments of the ILO's supervisory bodies related to the informal economy

International labour standards are backed by a supervisory system that is unique at the international level and that helps to ensure that countries implement the Conventions they ratify. The ILO regularly examines the application of standards in member States and points out areas where they could be better applied. If there are any problems in the application of standards, the ILO seeks to assist countries through social dialogue and technical assistance. To guide the reader through the various comments formulated by the ILO's supervisory bodies related to workers in the informal economy, the following section provides a brief description of these bodies as well as an overview of their functioning.

### *The Committee of Experts on the Application of Conventions and Recommendations (CEACR)*

The Committee of Experts was set up in 1926 to examine the growing number of government reports on ratified Conventions. Today it is composed of 20 eminent jurists appointed by the Governing Body for three year terms. The Experts come from different geographic regions, legal systems and cultures. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

When examining the application of international labour standards, the Committee of Experts makes two kinds of comments: *observations* and *direct requests*. Observations contain comments on fundamental questions raised by the application of a particular Convention by a member State. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.

### *General Surveys*

International labour standards are universal instruments adopted by the international community through the International Labour Conference and reflecting common values and principles on work-related issues. While member States can choose

whether or not to ratify any Convention, the ILO considers it important to keep track of developments in all countries, whether or not the Conventions have been ratified.

Under article 19 of the ILO Constitution, member States are required to report at regular intervals, at the request of the Governing Body, on measures they have taken to give effect to any provision of certain Conventions or Recommendations, and to indicate any obstacles which have prevented or delayed the ratification of a particular Convention.

On the basis of article 19, the Committee of Experts publishes an in depth annual General Survey on member States' national law and practice, on a subject chosen by the Governing Body. These surveys are established mainly on the basis of reports received from member States and information transmitted by employers' and workers' organizations. They allow the Committee of Experts to examine the impact of Conventions and Recommendations, to analyse the difficulties indicated by governments in their application and to identify means of overcoming these obstacles.

### *The Conference Committee on the Application of Standards*

The annual report of the Committee of Experts, usually published in March, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question. In these cases the Conference Committee draws up conclusions recommending that governments concerned take specific steps to remedy a problem or to invite ILO missions or to avail themselves of technical assistance.

### *The Committee on Freedom of Association*

In 1951, the ILO set up the Committee on Freedom of Association (CFA) for the purpose of examining complaints about violations of freedom of association, whether or not the country concerned had ratified the relevant Conventions. Complaints may be brought against a member State by employers' and workers' organizations. The CFA is a Governing Body committee, and is composed of an independent chairperson and three representatives each of governments, employers, and workers. If the Committee finds that there has been a violation of freedom of association standards or principles, it issues a report through the Governing Body and makes recommendations on how the situation could be remedied. Governments are subsequently requested to report on the implementation of its recommendations. In cases where the country has ratified the relevant instruments, legislative aspects of the case may be referred to the Committee of Experts.

## I. The Committee of Experts' observations and direct requests regarding the informal economy

The following comments, which are a selection of observations and direct requests made by the Committee of Experts between 2002 and 2010, are fairly recent. While the term “informal sector” first came up in the seventies in research papers carried out by the ILO on the situation of poor workers in Kenya, it was during 2002 International Labour Conference that a conceptual framework of employment in the informal sector was presented in the context of the discussion on decent work and the informal economy. Highlights of this framework included the following:

- the term “informal economy” was proposed in lieu of the “informal sector” to accommodate “all economic activities that are – in law or practice – not covered or insufficiently covered by formal arrangements”. The broadened term takes account of the considerable diversity of workers and economic units, in different sectors of the economy and across rural and urban contexts that are particularly vulnerable and insecure; that experience severe decent work deficits and often remain trapped in poverty and low productivity;
- the informal economy includes wage workers and own-account workers, contributing family members and those moving from one situation to another;
- it includes some of those who are engaged in new flexible work arrangements and who find themselves at the periphery of the core enterprise or at the lowest end of the production chain;
- the resolution called on governments to develop and implement a range of policies and programmes, on social partners to advocate for and extend representation, and on the Office to undertake a series of actions to better address the needs of workers and economic units in the informal economy throughout the Organization.<sup>4</sup>

The Committee of Experts thus decided to address issues relevant to the informal economy in a more systematic manner after the 2002 discussion at the Conference. While some comments concern themes such as freedom of association, discrimination or labour administration, in particular with regard to the scope of application of these instruments, the majority of the Committee's comments relate to the Conventions on child labour and, to a lesser extent, employment policy. In fact, both under the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child

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<sup>4</sup> See Conclusions, *op.cit.*, note 3.

Labour Convention, 1999, (No. 182), the Committee has systematically pointed out to governments that the situation of children working in the informal economy deserves special attention. Under the Employment Policy Convention, 1964 (No. 122), the Committee has also regularly pointed out that the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the social partners with a view to securing their full cooperation in formulating and implementing employment policies, including the opinions of those working in the rural sector and the informal economy. It should also be pointed out that while there might be no comments from the Committee of Experts referring explicitly to the informal economy on Conventions related to forced labour (and therefore not visible in this Digest), there are nevertheless numerous situations identified by the Committee as cases of forced labour that are taking place in the context of the informal economy and for which it has asked governments to take measures. For instance, a number of comments relate to human trafficking for sexual exploitation, cases of bonded labour or forced labour for vulnerable categories of workers such as migrant workers, domestic workers or indigenous workers, which often occur in the context of the informal economy.

The following comments formulated by the Committee of Experts, which are in most cases extracts of observations or direct requests, have been divided between fundamental, priority and technical Conventions and are presented by subjects.

## **A. Observations and direct requests linked to the fundamental Conventions**

### **1. Freedom of association and collective bargaining:**

#### *Observations*

*CEACR: Individual Observation concerning Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) Bangladesh (ratification: 1972) Published: 2008 (extracts)*

With regard to additional civil liberties violations communicated by the ICFTU in previous communications, including harassment of unions by the intelligence authorities, police violence against protesting workers, arrest of trade unionists, as well as the difficulty in establishing trade unions in the ship recycling industry, the Committee notes the Government's observations according to which trade unions have not been harassed by the law enforcement agencies but rather the law enforcement agencies were obliged to perform their duties in cases where trade union leaders leading a procession, rally or demonstration were not in control of the mob so that unruly people would start to rampage, damage property, barricade highways, etc.; moreover, although workers in any sector have the right to establish trade unions under the new Labour Law of 2006, workers in the shipbreaking sector are casual workers and do not get an opportunity to form unions, because of the

limited period of their employment (connected to the breaking of a specific ship). The Committee recalls that Article 8 of the Convention provides that workers and their organizations, like other persons or organized collectivities, shall respect the law of the land and that the law of the land shall not be such as to impair, nor shall it be so applied so as to impair, the guarantees provided for in this Convention. In this regard, the Committee wishes to emphasize that the authorities should resort to the use of force only in situations where law and order is seriously threatened. The intervention of the forces of order should be in due proportion to the danger to law and order that the authorities are attempting to control and governments should take measures to ensure that the competent authorities receive adequate instructions so as to eliminate the danger entailed by the use of excessive violence when controlling demonstrations which might result in a disturbance of the peace. Furthermore, the Committee recalls that, by virtue of Article 2 of the Convention, workers without distinction whatsoever, including casual and informal sector workers in the shipbreaking industry, shall have the right to establish and join organizations of their own choosing. The Committee requests the Government to indicate in its next report any measures taken, including instructions given to the law enforcement authorities, so as to avoid the danger of excessive violence in trying to control demonstrations, and ensure that arrests are made only where criminal acts have been committed.

*CEACR: General Observation concerning Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) Published: 2009 (extracts):*

The Committee wishes to raise the particular challenges faced by workers in the informal economy in relation to organizational rights. In many countries around the world, the informal economy represents between half and three-quarters of the overall workforce. The Committee, in reaffirming that Convention No. 87 is applicable to all workers and employers without distinction whatsoever, is heartened by innovative approaches taken by governments, workers' and employers' organizations over recent years to organize those in the informal economy, but observes that these are few and far between and that the full benefits of the Convention rarely reach the informal economy.

In follow up to discussions in the Governing Body in relation to Export Processing Zones and the conclusions of the 2002 Conference Committee concerning decent work and the informal economy, the Committee wishes to request governments to provide information with their next report due on:

*Informal economy:*

- the nature and extent of the informal economy in the country, including percentage of women, percentage of migrants;
- any initiatives taken to ensure either in law or in practice the realization of the rights under the Convention to those in the informal economy.

*Direct Request*

*CEACR: Individual Direct Request concerning Right to Organize and Collective Bargaining Convention, 1949 (No. 98) Niger (ratification: 1962) Submitted: 2006*

*Article 4 of the Convention.* In its last observation, the Committee asked the Government to respond to comments sent by the International Confederation of Free Trade Unions (ICFTU) on 23 September 2003. The ICFTU observed, inter alia, that the labour legislation applies to very few workers because 95 per cent of workers are in the informal rural and urban informal economy, where the Government does not enforce workers' rights. The Committee notes the Government's reply that, although most workers work in subsistence agriculture and the informal economy, the Labour Code establishes and protects the right to organize of all workers. The Committee points out, however, that section 2 of the Labour Code defines a worker as 'anyone who has undertaken to carry out his/her occupational activity, in exchange for remuneration, under the direction and authority of some other natural or legal person, whether public or private'. The Committee requests the Government to indicate whether this definition excludes self-employed workers from the scope of the Labour Code, thus excluding a large proportion of workers in the informal sector of the economy from the provisions on freedom of association and collective bargaining in particular.

## 2. Child labour:

*Observations*

*CEACR: Individual Observation concerning Convention No. 182, Worst Forms of Child Labour, 1999 Mexico (ratification: 2000) Published: 2005 (extracts)*

The Committee notes that, in its concluding observations on the second periodic report of Mexico in November 1999 (CRC/C/15/Add.112, paragraphs 30 and 32), the Committee on the Rights of the Child, while welcoming the fact that measures have been taken for the elimination of child labour, noted with concern that economic exploitation remains one of the major problems affecting Mexican children. It expressed particular concern that only "street children" are categorized as "working children". It considered that this misconception affected the scope and perception of this social phenomenon. In this regard, it expressed particular concern that a large number of children are still involved in labour activities, especially in the informal economy and in agriculture, as well as at the insufficient law enforcement and the lack of adequate monitoring mechanisms. The Committee on the Rights of the Child recommended that the Government reconsider its position regarding the issue of child labour. The situation of children involved in hazardous labour, especially in the informal sector, deserves special attention. It also recommended that the legislation on child labour should be enforced, the labour inspectorate strengthened and penalties imposed in cases of violation.

*CEACR: Individual Observation concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Niger (ratification: 2000) Published: 2007 (extracts)*

*Article 3(d). Hazardous work. Children working in mines and quarries.* In its previous comments, the Committee took note of information sent by the ICFTU to the effect that a study conducted by the ILO in 1999 on child labour in small-scale mining, covering four types of traditional mines (trona mining in the Boboye region, salt in Tounouga, gypsum in Madaoua, and gold in Liptako-Gourma), showed that child labour is widespread in Niger, principally in the informal economy, and that work in small-scale mines is the most hazardous of all activities in the informal sector. The Committee noted that section 152 of Decree No. 67-126/MFP/T of 7 September 1967 provides that employers may not assign children to underground work in mines. It asked the Government to redouble its efforts to ensure that the legislation protecting children against underground work in mines was effectively applied.

The Committee points out in this connection that there is a difference between the child labour prohibited by ILO Conventions and the small tasks that children may carry out in the family environment which may be regarded as playing a major role in the child's socialization. The child labour prohibited by the ILO Conventions refers to jobs done by children, which in fact mask a form of bondage opening the way for abuse of all kinds, and in particular preventing children from studying and exposing them to situations that endanger their health and development. Although the problem is not as widespread as the one mentioned by the ICFTU, the Committee is concerned at the use of child labour in hazardous work, particularly mines and quarries in the informal sector. It observes that Niger, like many other developing countries, is affected by child labour because of the poverty of the population and the expansion of the informal economy to the detriment of the formal sector. The Committee requests the Government to take the necessary steps to ensure that the national legislation to protect children against underground work in mines also applies to informal mining and quarrying.

*CEACR: Individual Observation concerning Minimum Age Convention, 1973 (No. 138) Russian Federation (ratification: 1979) Published: 2008 (extracts)*

*Article 2, paragraph 1, of the Convention. 1. Scope of application.* The Committee had previously noted that section 63(1) of the Labour Code prohibits children under 16 years of age from concluding a labour contract. It had asked the Government to supply information on the measures taken or envisaged to ensure the application of the Convention to all types of work outside an employment relationship. The Committee notes the Government's statement that there are many cases of illegal employment of minors and violation of their labour rights in the informal economy. These include minors who wash cars, trade and perform auxiliary work. In this regard, the Committee once again reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment or work, whether or

not there is a contractual employment relationship and whether or not the work is remunerated. The Committee therefore once again requests the Government to take the necessary measures to ensure that the protection established by the Convention is ensured for children carrying out an economic activity without a labour contract, such as self-employed children and children working in the informal economy.

*CEACR: Individual Observation concerning Minimum Age Convention, 1973 (No. 138) Algeria (ratification: 1984) Published: 2009 (extracts)*

*Article 2, paragraph 1. Scope of application.* In its report, the Government indicates that, with regard to the age for admission to non-wage work, Algerian law prohibits access to employment for young persons less than 18 years of age. In this respect, it refers once again to section 5 of the Code of Commerce, which provides that any emancipated minor of either sex, aged 18 or over, who wishes to engage in commercial activity, may not commence commercial operations or be considered of majority age with regard to the commitments entered into for commercial purposes unless the said person has received prior authorization from her/his father or mother or, in the absence of a father and mother, through a decision of the family council approved by a court of law. The Committee notes that commercial activities are defined in sections 2 and 3 of the Code of Commerce. Under the terms of section 2 of the Code, commercial activities include any purchase of movables for resale, either in their present state or after having worked or processed them. The Committee notes that these provisions of the Code of Commerce regulate the possibility for emancipated minors of either sex, aged 18 or above, to engage in a commercial activity in the formal economy. The Committee accordingly understands that work performed by a minor who is not emancipated on her or his own account or in the informal economy, for example as a small trader, is prohibited by the Code of Commerce. However, it notes that these provisions of the Code of Commerce do not regulate all the economic activities that a child under 16 years of age may carry on in the informal economy or on her or his own account and which are covered by the Convention, for example in the agricultural and domestic sectors. In this respect, the Committee notes that the Committee on the Rights of the Child, in its concluding observations to the Government's second periodic report of October 2005 (CRC/C/15/Add.269, paragraph 74), noted with concern that the minimum age for admission to employment (16 years) does not apply to children working in the informal economy (for example, agriculture and domestic service). The Committee on the Rights of the Child recommended the Government to take effective measures to prohibit the economic exploitation of children, particularly in the informal economy, where their exploitation is more prevalent.

*CEACR: Observation concerning Minimum Age Convention, 1973 (No. 138) Ukraine (ratification: 1979) Submitted: 2010 (extracts)*

*Article 2, paragraph 1, of the Convention. Scope of application.* The Committee had previously noted the Government's information that the provisions of section 188 of the Labour Code, regulating the minimum age for admission to employment, as well

as the provisions prohibiting the employment of children in hazardous work, apply to workers of all enterprises, institutions and organizations, irrespective of the forms of ownership, type of activity and sectoral affiliation. It had observed that since 2005 the Goznadzortrud (authority within the Ministry of Social Labour and Social Policy which monitors the compliance of labour legislation) had participated in the implementation of the ILO/IPEC project "Institutional development of labour inspection for participation in the System of Child Labour Monitoring (CLMS) in two pilot regions – Donetsk and Kherson regions". Under this project, workplaces in both the formal and informal economy have been monitored. Moreover, in 2006, six districts were identified in the Donetsk and Kherson regions where the identification of working children is under way, both in the formal and informal sectors.

The Committee had noted with interest the Government's information that the CLMS developed in the Donetsk and Kherson regions will be replicated at the country level under the "National Plan of Action to implement the United Nations Convention on the Rights of the Child for 2006–16", adopted in June 2007. The introduction of the system of permanent monitoring of child labour will make it possible to detect cases of the illegal use of child labour as well as to remove children from the worst forms of child labour. The Committee, however, noted the Government's statement that, the supervision of the use of child labour in the informal sector of the economy remained an outstanding issue. This concerns, above all, the right of access to workplaces in the informal sector. The lack of criteria of evaluation of the presence of employment relations when using child labour in private garden plots or in the street does not provide the inspectors with the grounds to apply administrative sanctions. The basic problem, therefore, consists in the development of a mechanism to collect evidence testifying to the fact that a child works for an employer in the absence of any written arrangements. The labour inspectors involved in the implementation of the ILO/IPEC programme in the Donetsk and Kherson regions were carrying out their activities to develop such a mechanism with the participation of the representatives of other supervisory bodies. Noting the absence of information in the Government's report, the Committee once again expresses its hope that, in adopting the CLMS at the national level, the labour inspection component concerning children working in the informal sector will be strengthened. It requests the Government to redouble its efforts to adapt and strengthen the labour inspection services in the informal sector, in order to ensure that the protection established by the Convention is ensured for children working in this sector. It also requests the Government to provide information on any impact of the recent adoption of the CLMS at the national level on improving the capacity of labour inspectors to detect cases of child labour in the informal sector with a view to removing these children from child labour and its worst forms.

*Part V of the report form. Practical application of the Convention.* The Committee had previously expressed its concern at the large number of children under the age of 16 who increasingly worked in practice, especially in the informal sector. It had also noted the Government's statement that identifying children working in the illegal mines were difficult due to the lack of information about the location

of such mines. However, within the framework of the ILO/IPEC programme, since 2006, a set of measures had been envisaged aimed at identifying children working in the illegal mines and engaged in the grading and loading of coal on the open surfaces. It was envisaged to identify such children with the participation of the members of the Trade Union of Free Miners of Ukraine. Moreover, the Committee had also noted the Government's information that, in the framework of the ILO/IPEC programme, the Centre of Social Expertise of the Institute of Sociology of the National Academy of Sciences had conducted a study on the use of child labour in six sectors of the informal economy (agriculture, street trade, work in mines, services sector, commercial sexual exploitation and illegal activities, including begging) in Ukraine, following the example of the Donetsk and Kherson regions. This study served as a basis for developing vocational training programmes for children at risk of being involved in child labour and its worst forms. However, the lack of updated statistical data at the national level on the use of child labour in the informal sector constituted a problem.

The Committee notes the Government's information that, as a result of the inspections carried out in August 2008 in 660 enterprises, including 160 agricultural undertakings, violations of child labour legislation were identified with respect to 2,237 minors. Out of this, 66 working children were under the age of 14 years, out of which 64 were engaged in agricultural undertakings. Other violations were with regard to the keeping of records of the young persons by the employer, children working under heavy and harmful working conditions, and long working hours. The Committee also notes the Government's information that 453 orders and directives were issued by the labour inspectors against the employers for the violations of the provisions of child labour, and 351 notices were issued to the court to bring the employers to administrative responsibility. The Committee once again requests the Government to provide a copy of the study conducted by the Centre of Social Expertise of the Institute of Sociology of the National Academy of Sciences. It also requests the Government to indicate the outcome of the measures taken within the framework of the ILO/IPEC project to identify children working in the illegal mines and engaged in the grading and loading of coal on the open surfaces. It finally requests the Government to continue to provide extracts from the inspection services, especially regarding children working in the informal sector, as well as information on the number and nature of the contraventions reported and penalties applied.

#### *Direct requests*

*CEACR: Individual Direct Request concerning Convention No. 138, Minimum Age Convention, 1973 Equatorial Guinea (ratification: 1985) Submitted: 2002 (extracts)*

*Minimum age in the informal sector and in family undertakings.* The Committee noted the Government's indication in its report that the employment or work in informal sector and in small family undertakings should be excluded from the application of

the Convention according to Article 5 of the Convention. However, the Committee points out that the Convention applies to all kinds of employment or work regardless of the formal nature of the work, unless recourse is made to the flexibility clauses under Articles 4 and 5 to exclude limited categories of workers, or certain branches of economic activity or types of undertakings, respectively. In addition, if these flexibility clauses are to be used, there are procedural requirements, i.e. the excluded categories must be listed in the first report (Article 4, paragraph 2) or in a declaration which must be made at the time of ratification (Article 5, paragraph 2).

In view of the above facts, the Committee again requests the Government to take measures to ensure that, in accordance with Article 2, paragraph 1, no person under the specified minimum age (14) should be admitted to employment or work in any occupation whatsoever, including self-employment, for instance, and to indicate such measures. Noting the Government's indication of difficulties in regulating work performed in the informal sector, the Committee requests the Government to refer to the general observation it made in 1995 in which the Committee mentioned several possible measures to apply the national policy for the effective abolition of child labour, such as facilities for education and vocational training, and economic and social measures to ensure family living standards.

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Nepal (ratification: 1997)  
Submitted: 2006 (extracts)*

*Article 2, paragraph 1, of the Convention. Scope of application.* The Committee had previously noted that section 3(1) of the Child Labour Act provides that no one shall employ as labourers children who have not completed 14 years of age. It had also noted that the Act does not define the notion of 'employment', nor that of 'labourer'. Recalling that the Convention applies to all types of work or employment, the Committee had requested the Government to indicate any measures taken or envisaged to ensure the application of the minimum age specified by the Government (14 years) to all types of work outside an employment relationship, such as self-employment. The Committee notes the Government's indication that the Act does not adequately cover the informal sector. It also notes that the Government has been carrying out discussions with the social partners for the improvement of the Act. Thus, a study was commissioned by the ILO/IPEC time-bound programme (TBP) to identify the gaps in the Act to make it compatible with the Convention. In particular, the notions of 'employment' and 'labourer' will be defined. The Committee further notes the Government's indication that it will remain effortful to apply the minimum age provisions to the informal sector as well. The Committee requests the Government to keep it informed on the progress achieved in this respect.

The Committee notes that, according to the ILO/IPEC progress reports on the implementation of the TBP of July and December 2004, the initial objectives of the TBP were modified to achieve less ambitious and shorter-term objectives due to the political and economic crisis that has paralysed the country. The Committee also notes

the Government's information that a strong association is found between the incidence of poverty and child labour. According to the Labour Force Survey 1998/99, about 2 million children (41 per cent) in the age group 5-14 were involved in work in Nepal. According to the National Living Standard Survey 2003-04 carried out by the Central Bureau of Statistics, the incidence of child labour is about 31 per cent. The Committee also notes the Government's statement that after the ratification of the Convention the incidence of child labour has decreased significantly in the formal sector. In spite of the limited capacity of labour inspectors in terms of human, physical and financial resources, they are working to implement the provisions of the Convention and are carrying out regular inspections of establishments. Several efforts are being made at tripartite levels. However, the use of child labour continues in the informal sector, where more than 95 per cent of the workers are engaged. The Committee further notes that reports or complaints on child labour are rare, because the violations occur mostly in the informal sector. It notes the Government's indication that consultations are in progress among social partners and other stakeholders to devise an effective monitoring system in the informal sector. Noting that the Government faces a serious political and economic crisis, the Committee nevertheless remains deeply concerned at the number of children under the age of 14 who are working in the informal sector. It strongly encourages the Government to renew its efforts to progressively improve the situation and to provide detailed information on measures taken in this regard.

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Bahamas (ratification: 2001) Submitted: 2008 (extracts)*

*Article 2, paragraph 1. Scope of application.* In its previous comments, the Committee had noted that section 50(1) of the Employment Act 2001, provides that a child (any person under the age of 14 years) shall not be employed in any undertaking except as expressly provided in the First Schedule. It had requested the Government to provide information on the manner in which children working outside an employment relationship in an undertaking are guaranteed the protection afforded by the Convention. The Committee notes that, according to the ILO and the CIDA Regional Child Labour Project study, children were found working in a variety of activities that were suggestive of child labour. Most cases were associated, among others, with the informal sector. The Committee recalls that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether under a labour relationship or contract of employment or not, and whether it is remunerated or not. It requests the Government to indicate the measures taken or envisaged to ensure that children working outside an employment relationship are guaranteed the protection afforded by the Convention.

*Part V of the report form. Practical application of the Convention.* The Committee notes that, according to the ILO and the CIDA Regional Child Labour Project study in the Bahamas, the Labour Inspectorate Unit does not have the human resource capability or the administrative framework to conduct the requisite inspection of

workplaces for child labour. Moreover, the majority of children work in the informal sector, which is not generally inspected by the Inspectorate. The study recommends that the Labour Inspectorate Unit be given the specific mandate and resources to target child labour in its inspections. In light of the above, the Committee requests the Government to provide information on the measures taken or envisaged to reinforce the Labour Inspectorate Unit in order to secure the enforcement of the legal provisions relating to child labour. It also requests the Government to provide information on the manner in which the Convention is applied, including, for example, statistical data on the employment of children and young persons, extracts from the reports of inspection services and information on the number and nature of contraventions reported.

*CEACR: Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Bangladesh (ratification: 2001) Submitted: 2009 (extracts)*

*Article 6, paragraph 1. Programmes of action to eliminate the worst forms of child labour.* The Committee had previously noted that a number of ILO/IPEC projects to eliminate the worst forms of child labour have been launched in Bangladesh which especially focus on work in the informal economy and hazardous work (in particular in bidi (rolling cigarettes) factories; construction; leather tanneries; the making of matches). The Committee notes the Government's statement that the first successful programme was implemented in the ready-made garments sector, where 10,500 children were removed and provided with non-formal education and vocational training, as well as with monthly stipends. The Government indicates that, with time and under the guidance and control of the National Tripartite Steering Committee, in collaboration with the Government and NGOs, the ILO/IPEC programmes were expanded progressively to both informal and formal sectors. The Government also indicates that the Ministry of Labour and Employment and ILO/IPEC are jointly implementing the time-bound programme (TBP) and have recently established the Child Labour Unit to monitor its implementation. The Committee further notes that the National TBP Framework sets the goal of eliminating the worst forms of child labour by 2015 and suggests a phased implementation of its programme/interventions, which are categorized under nine major "components": national capacity building; awareness raising and advocacy; policy and legal reform; urban informal economy (UIE); rural informal economy (RIE); basic education; technical education; poverty reduction; and unconditional worst forms of child labour. The Committee requests the Government to provide information on the phased implementation of the TBP and the results achieved in eliminating the worst forms of child labour, more specifically in terms of the number of children prevented or withdrawn and rehabilitated from the worst forms of child labour through each of the nine components of the TBP.

*Children in the informal sector.* The Committee notes that, according to the Technical Progress Report (TPR) for the project "Prevention and Elimination of Selected Worst Forms of Child Labour in the Informal Economy in Dhaka" of 7 March 2007, during

the project duration, 4,648 children were fully withdrawn, and 3,007 children partially withdrawn, from exploitative work through the provision of educational services or training opportunities. The Committee further notes that, in the framework of the TBP, two of the nine components of intervention identified for the ILO/IPEC-led Project of Support to the TBP (TBP-POS) are the Urban Informal Economy and the Rural Informal Economy. In this regard, it is intended to implement a TBP-Urban Informal Economy programme (TBP-UIE). The TBP-UIE limits its coverage to Dhaka Metropolitan, so as enable the programme to develop and demonstrate a potentially viable model for the prevention and elimination of the worst forms of child labour in the urban informal economy that could be expanded or replicated to other metropolitan areas in Bangladesh. The Committee also notes that a TBP-Rural Informal Economy (TBP-RIE) programme is being elaborated. The Committee requests the Government to provide information on the implementation of the TBP-UIE and on the elaboration of the TBP-RIE, and on the results achieved pursuant to those programmes in terms of the number of children withdrawn from the worst forms of child labour in the urban and rural informal economy sectors.

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Comoros (ratification: 2004) Submitted: 2009 (extracts)*

*Article 2, paragraph 1. Scope of application.* The Committee notes that, under section 123(1) of the Labour Code, children may not be employed in any enterprise, even as apprentices, before the age of 15 years. The Committee notes that this provision shows that the minimum age for admission to employment or work applies only to an employment relationship and, consequently, no minimum age for admission to employment or work is provided for in respect of children performing an economic activity outside this context, particularly those who are self-employed or working in the informal sector. It reminds the Government that the Convention applies to all branches of economic activity and that it covers any type of employment or work, whether or not it is performed on the basis of an employment relationship and whether or not it is paid. The Committee requests the Government to supply information on the manner in which children who are not bound by an employment relationship, such as those who are self-employed or working in the informal sector, benefit from the protection afforded by the Convention. In this regard, it requests the Government to consider the possibility of taking measures to adapt and strengthen the labour inspection services in order to ensure this protection.

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Côte d'Ivoire (ratification: 2003) Submitted: 2009 (extracts)*

*Article 2, paragraphs 1 and 4. Scope of application.* The Committee notes that the minimum age for admission to employment specified at the time of ratification of the Convention is 14 years. In this regard, it notes the information supplied by the Government to the effect that this age was specified with the agreement of the social partners, inasmuch as the economy and educational institutions are not sufficiently

developed in the country. The Committee also notes that, under section 23.8 of Act No. 95/15 of 12 January 1995 (hereinafter "1995 Labour Code"), children may not be employed in an enterprise even as apprentices before the age of 14 years, without an exemption issued by regulation. The Committee notes that, under this provision, the minimum age for admission to employment or work applies only to an employment relationship and that consequently no minimum age for admission to employment or work is laid down for children who perform an economic activity outside this employment context, particularly in the informal sector or on a self-employed basis. It reminds the Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work whether or not it is performed on the basis of an employment relationship and whether or not it is paid. The Committee requests the Government to supply information on the way in which children who are not bound by an employment relationship, such as those who work on their own account or in the informal sector, enjoy the protection laid down by the Convention. In this regard, it requests the Government to envisage the possibility of taking measures to adapt and reinforce the labour inspection services in such a way as to ensure this protection.

*Part V of the report form. Application of the Convention in practice.* The Committee notes that the Government, in its initial report to the Committee on the Rights of the Child in 2000 (CRC/C/8/Add.41, paragraphs 86 and 172), indicates that, in reality, lack of training, the failure to match training to jobs and the persistent economic crisis lead to high unemployment among young people, some of whom resort to the informal sector. The Government also indicates that the abdication of parental responsibility and inadequate action on the part of the public authorities lead to the exploitation of children in the labour sector. Some children under 14 years of age go to work with or without their parents' consent. Furthermore, the Government indicates that the exploitation of child labour, owing to poverty, is on the increase in the cities and some rural areas. Child workers are found in manufacturing enterprises and also in services such as carpentry, catering, craft work, street trading, domestic work, engineering and mining. A study published by the NGO Defence for Children International (DCI) entitled "Child labour in the mines of Côte d'Ivoire, illustrated by the Tortiya and Issia mines" reveals that 1,150 children are working in the Issia gold mine and the Tortiya diamond mine. The Committee requests the Government to supply information on the application of the Convention in practice, including, for example, statistical data disaggregated by sex and age, concerning the nature, extent and trends of the work of children and young people working below the minimum age specified by the Government at the time of ratification, and extracts from the reports of inspection services.

*CEACR: Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Gabon (ratification: 2001) Submitted: 2009 (extracts)*

The Committee notes that it emerges from the discussion which took place within the Committee on the Application of Standards in June 2007 that the extent of child

labour in the informal economy is worrying. In 2004, it was estimated that 95 per cent of the 25,000 children working in Gabon were in the informal economy. The Committee notes that it also emerges from the discussion which took place within the Committee on the Application of Standards that foreign children living in Gabon are very often used in the informal economy as domestic workers, street vendors and beggars. The Committee also notes that, in its conclusions of June 2007, the Committee on the Application of Standards requested the Government to expand the authority of the labour inspection services in enforcing the law.

(see also the discussion before the Conference Committee in 2007)

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Mozambique (ratification: 2003) Submitted: 2009 (extracts)*

*Article 2, paragraph 1, of the Convention. 1. Scope of application. (i) Children working on their own account and in the informal sector.* In its previous comments, the Committee had noted that, according to sections 1 and 2 of the Labour Act, the Act only applies to a labour relationship. It had requested the Government to provide information on the manner in which children who are not covered by an employment relationship, such as children working on their own account, are afforded the protection established in the Convention. The Committee notes the Government's information that, in Mozambique, there is no specific regulation governing children who are not covered by an employment relationship. It reminds the Government that the Convention applies to all branches of economic activity and covers all types of employment or work, whether or not there is a contractual employment relationship and whether or not the work is remunerated. It therefore requests the Government to provide information on the measures taken or envisaged to ensure that children who are not bound by an employment relationship, those who work on their own account, are covered by the protection provided by the Convention. The Committee also requests the Government to adapt and strengthen the labour inspection services in order to ensure that the protection established by the Convention is ensured for children working on their own account and those working in the informal sector.

*CEACR: Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138) Papua New Guinea (ratification: 2000) Submitted: 2009 (extracts)*

*Article 1 of the Convention.* The Committee had previously noted that, under the ILO country programme for Papua New Guinea, a child labour force survey was planned to be conducted in collaboration with UNICEF. The Committee had also noted that the Government had elaborated a National Plan of Action. It had asked the Government to provide information on the abovementioned projects and the results attained and on the national policy measures designed to effectively reduce and

eliminate child labour. The Committee noted the Government's information that an initial meeting was held in May 2005 between the Government and UNICEF and it was agreed that the survey might be implemented in the second half of 2005. This project would involve the conduct of a pilot survey in the urban areas of Lae, Rabaul, Goroka and Port Moresby to determine the types and extent of child labour in the country before a comprehensive study would be carried out. The Committee also noted that the Government had developed a "White Paper on Decent Work and Poverty Alleviation" and a National Action Plan on Decent Work and Poverty Alleviation. These two documents were presented at a national tripartite workshop on 23 March 2005 but no consensus had been reached. The Committee further noted the Government's information that Parliament adopted in 2004 the Informal Sector Control and Management Act, which allows for people to engage in informal businesses for their living. The Ministry of Community Development with the Consultative Implementation and Monitoring Council are mandated to coordinate and monitor the implementation of this Act and consequently oversee the situation with child labour in the informal sector throughout the country. The Committee once again requests the Government to keep it informed on the implementation of the Child Labour Force Survey, the National Plan of Action and the "White Paper on Decent Work and Poverty Alleviation" and the results attained. It also asks the Government to provide a copy of the newly adopted Informal Sector Control and Management Act.

*Article 4. Exclusion of limited categories of employment or work.* The Committee had previously noted that section 103(3)(d) of the Employment Act stipulates that, as an exception to the provision fixing the minimum age for employment or work, a person who is between 11 and 16 years of age may be employed in undertakings in which only members of his family are employed. The Committee had also noted that section 6 of the Minimum Age (Sea) Act, 1972, fixing the minimum age for working on board ships, does not apply, according to subsection (2), to service in a vessel on which only members of the same family are employed. The Committee had recalled that, by virtue of Article 4, paragraph 1, of the Convention, the competent authority may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise. It had also recalled that, under Article 4, paragraph 2, each Member which ratifies the Convention shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories. The Committee had asked the Government to state, in its next report, the position of its law and practice in respect of children working in family undertakings. The Committee noted that the Government was planning to review its labour legislation, in particular the Employment Act, in accordance with the requirements of the Convention. It also noted the Government's indication that there were some concerns raised by the general public with regard to children who are working in family undertakings in the informal sector, which have been noted by the Consultative Implementation and Monitoring Council. The Committee requests the Government to keep it informed of the position of its law and practice in respect of such children and on progress made in reviewing relevant legislation.

*CEACR: Direct request concerning Minimum Age Convention, 1973 (No. 138) Chad (ratification: 2000) Submitted: 2010 (extracts)*

*Clause (d). Hazardous work. Self-employed children.* In its previous comments, the Committee noted the Government's indication that the informal economy, which forms a substantial part of the national economy, is not organized despite the fact that large numbers of children work in it. The Committee noted from this information that Decree No. 55/PR/MTJS-DOMPS does not apply to young persons under 18 years of age who perform hazardous work in the informal economy. Noting the lack of information in the Government's report, the Committee requests the Government once again to indicate the manner in which young persons under 18 years of age enjoy the protection laid down by Article 3(d) of the Convention, namely the prohibition on employment in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The Committee expresses great concern at the low net school attendance rate, at both primary and secondary levels, and at the gender gap, to the detriment of girls. In view of the fact that education contributes towards preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system in the country. It requests the Government to supply information on the effective and time-bound measures taken to increase the school attendance rate, at both primary and secondary levels, and reduce the gender gap in access to education, with particular emphasis on girls. The Committee requests the Government to provide information on the results achieved.

*Clause (d). Children at special risk. 1. Street children.* The Committee notes the Government's reference, in its report to the CRC in June 2007 (CRC/C/TCD/2), to a 2003 UNICEF study on children in need of special protection, according to which 7,031 such children were identified as living or working in the street in the following seven towns and cities: Abéche (467), Bongor (505), Doba (222), Kélo (1,103), Moundou (582), N'Djamena (3,570) and Sarh (582) (CRC/C/TCD/2, paragraphs 301 and 302). The Committee also notes that the CRC, in its concluding observations of February 2009 (CRC/C/TCD/CO/2, paragraph 75), expressed concern at the high number of children living in the streets, predominantly children living in poverty and at heightened risk of sexual and economic exploitation. The CRC also expressed concern at the lack of specialized institutions or shelters to address the needs of these children. The Committee reminds the Government that street children are particularly vulnerable to the worst forms of child labour. In view of the large number of children living in the streets, the Committee requests the Government to take time-bound measures to protect street children from the worst forms of child labour, including by ensuring the rehabilitation and social integration of those who have actually been removed from the streets, including through the setting up of specialized institutions or shelters. It requests the Government to provide information on the results achieved.

3. Child domestic workers. In its previous comments, the Committee noted the Government's indication that it had found in practice that children were improperly employed in domestic work. The Committee notes the Government's indication that the sector is in the process of being regulated. It also notes that the Government, in its report to the CRC in June 2007 (CRC/C/TCD/2, paragraph 79), indicated that a study of the problem of child domestic labour in N'Djamena was undertaken in 2005. The Committee notes that children, particularly young girls, employed in domestic work are often the victims of exploitation, which assumes diverse forms, and that it is difficult to monitor their conditions of employment because of the hidden nature of this work. The Committee requests the Government to provide information on the time-bound measures taken to protect child domestic workers from the worst forms of child labour, to remove them from such labour and provide the necessary and appropriate direct assistance to ensure their rehabilitation and social integration, particularly by the setting up of shelters with the necessary resources. It requests the Government to provide a copy of the study undertaken in 2005, and of the above-mentioned regulations, once they have been adopted.

*CEACR: Direct request concerning Minimum Age Convention, 1973 (No. 138) Mauritania (ratification: 2001) Submitted: 2010 (extracts)*

*Article 3, paragraph 3, of the Convention. Authorization to employ children as from the age of 16 years.* In its previous comments, the Committee noted that section 1 of Order No. 239 of 17 September 1954, as amended by Order No. 10.300 of 2 June 1965 respecting child labour (the Child Labour Order), provides that in establishments of any nature, including family enterprises or private homes, it is prohibited to employ children under 18 years of age on hazardous work. It however noted that certain provisions of Order No. 239 of 17 September 1954 (Order No. 239), including sections 15, 21, 24, 25, 26, 27 and 32, allow the employment of children from the age of 16 years on hazardous types of work. Finally, it noted that section 1 of Order No. R-030 of 26 May 1992 (Order No. R-030) provides that no person under 16 years of age may be placed in charge of manoeuvring hoists, including scaffold hoists, or giving driver signals. The Committee requested the Government to provide information on the measures adopted to ensure that the performance of hazardous types of work by young persons between 16 and 18 years of age is only permitted in conformity with the provisions of *Article 3, paragraph 3 of the Convention*.

In its report the Government indicated that section 1 of the Child Labour Order unambiguously provides that "it is prohibited to employ children of either sex under 18 years of age on work that exceeds their strength, involves risks of danger or which, by their nature or the conditions in which they are carried out, are likely to harm their morals". The Committee however observes that this provision establishes the general prohibition of employing young persons under 18 years of age on hazardous types of work, while the provisions of Orders No. 239 and No. R-030 set forth exceptions to this prohibition for children between the ages of 16 and 18 years. The Committee reminds the Government that *Article 3, paragraph 3, of the Convention* only authorises the employment or work of young persons between 16 and 18 years

of age under strict conditions of protection and prior training. The Committee therefore requests the Government to take the necessary measures to ensure that the performance of hazardous types of work by young persons ages between 16 and 18 years is only authorized on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity, in accordance with the provisions of Article 3, paragraph 3.

*Article 5. Limitation of the scope of the Convention to certain branches of economic activity.* In its previous comments, the Committee noted that, at the time of ratification of the Convention, Mauritania declared that it was initially limiting the scope of the Convention to the branches of economic activity and types of enterprise covered by *Article 5, paragraph 3*, of the Convention, namely: mining and quarrying; manufacturing; construction and public works; electricity, gas and water; sanitary services; transport, storage and communications; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers. The Committee reminds the Government that, under the terms of *Article 5, paragraph 4(a)*, of the Convention, any government which has limited the scope of application of the Convention in pursuance of that Article shall indicate in subsequent reports the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of the present Convention, and any progress which may have been made towards the wider application of the provisions of the Convention. In this respect, the Committee noted previously that, according to a study undertaken by the Government in 2004 in collaboration with UNICEF, children work on their own account in the informal economy as carters, hawkers or in the street, while girls work especially as domestic workers.

The Committee notes the Government's indications that, in the branches of activity excluded from the scope of application of the Convention, child labour is almost nonexistent. However, the Government has the intention of extending the scope of application of the Convention to the informal economy, where there are still children who work. The Committee requests the Government to indicate the general situation as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of the Convention, in accordance with Article 5, paragraph 4(a).

*CEACR: Direct request concerning Worst forms of child Convention, 1999 (No. 182) Nepal (ratification: 2002) Submitted: 2010 (extracts)*

2. *Self-employed children.* The Committee had previously noted that self-employed workers do not benefit from the protection laid down in the Child Labour (Prohibition and Regulation) Act. It had noted the Government's statement that the Ministry of Labour and Transport Management and the Ministry of Labour and Employment Promotion organized five workshops as a means to strengthen the capacity of labour

officers and factory inspectors to consider seriously the worst forms of child labour, including in the informal sector. The Committee had also noted the Government's information that with the support of ILO-IPEC, three national-level trade union federations are trying to extend their work against child labour in the informal sector by unionizing the agricultural sector.

The Committee notes the Government's statement in its report under Convention No. 138 that though the labour inspections shows a negligible incidence of child labour in the formal sector, it is more likely to be prevalent in the informal sector. It also notes the Government's information that it is very difficult to enforce the provisions of this Convention in the informal sector due to limited infrastructure and financial resources. The Committee requests the Government to take immediate and effective measures to ensure that self-employed children under 18 years of age are protected against the types of work, which by their nature or the circumstances in which they are carried out, are likely to harm their health, safety or morals. It also requests the Government, in the context of adopting measures to strengthen the capacity of labour inspectors, to envisage the possibility of adapting their functions so that they can secure the protection set out in the Convention for the children working in the informal sector.

(see also direct request of 2006 under Convention no. 138)

### 3. Equality of opportunity and treatment:

#### *Direct Requests*

*CEACR: Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) United Republic of Tanzania (ratification: 2002) Submitted: 2006 (extracts)*

*Gender equality.* The Committee notes that, according to the National Employment Policy, women constitute 54 per cent of the labour force in mainland Tanzania. However, the Integrated Labour Force Survey of 2000-01 prepared by the National Bureau of Statistics revealed inequalities with regard to the position of women in the labour market. For instance, only 18.6 per cent of persons employed by parastatal organizations are women. In respect to employment status, women are underrepresented in the category of paid employment (29.3 per cent). In this context, the Committee notes that the United Nations Development Assistance Framework for Tanzania (2002-06) identified discrimination of women as reflected in stereotypical occupations with minimum qualifications as a key concern. The Committee requests the Government to keep it informed on the measures taken to strengthen the position of women in the formal and informal labour market. Please provide information on the measures taken to promote equal access of men and women to employment in the government, parastatal and private sectors, and to promote women's equal access to income-generating activities in the informal economy.

*CEACR: Individual Direct Request concerning Equal Remuneration Convention, 1951 (No. 100) Burundi (ratification: 1993) Submitted: 2009 (extracts)*

*Informal economy.* The Committee notes the 2007 report on the informal sector published by the Economic and Statistical Observatory of Sub-Saharan Africa and the Institute of Statistics and Economic Studies of Burundi which was attached to the Government's report. According to the report, women are highly concentrated in the clothing industry (where the average monthly wage amounts approximately to FBU4, 500), while men are concentrated in transport and repairing services (where the average monthly wage is, respectively, FBU20,000 and FBU29,900). In addition, the report indicates that, even where women have the same qualifications as men, they receive lower remuneration than men. The Committee asks the Government to indicate the measures taken or envisaged to address pay discrimination in the informal economy, including through initiatives aimed at promoting girls' access to education and vocational training as well as sensitization programmes to overcome the traditional stereotypes on the role of women in society.

*CEACR: Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) Côte d'Ivoire (ratification: 1961) Submitted: 2010 (extracts)*

1. *Article 1 of the Convention. Protection against discrimination in the public service and for persons without employment contracts.* In its previous comments, the Committee requested the Government to specify how section 4 of the Labour Code protects persons on indefinite appointments and employees in the service of the State, in view of the fact that section 2(3) appears to exclude these two categories of workers from the Code's scope. The Committee notes that no provision of the public service regulations protects these employees from discrimination. The Government indicates, however, that persons on permanent appointments and employees in the service of the State are protected from discrimination based on race, religion and social origin because they are nationals and so enjoy equality of rights and duties. The Committee draws the Government's attention to the fact that granting equality of rights and duties to nationals is not sufficient to fulfil its obligations under the Convention. The Government has a duty to take proactive measures to ensure effective protection against discrimination on all the grounds set forth in the Convention, for all employees in the public sector including those on permanent appointments and those employed in the service of the State. The Government is asked to provide information on how, in practice, it ensures equality of access and treatment for those on permanent appointments and employees in the service of the State. Noting also that the Labour Code only applies to persons with an employment contract, the Committee asks the Government to provide information on how it affords protection against discrimination to workers without an employment contract such as self-employed workers and workers in the informal economy. It asks the Government to provide information on the practical application of section 4 of the Labour Code and on any relevant court decisions.

## **B. Observations and direct requests linked to the priority Conventions**

### *Observations*

*CEACR: Individual Observation concerning Convention No. 122, Employment Policy, 1964 Venezuela (ratification: 1982) Published: 2002 (extracts)*

The Committee refers once again to the representation made under article 24 of the Constitution of the ILO by the Latin American Central of Workers (CLAT) and the Latin American Federation of Trade Workers (FELTRALCOS) (document GB.273/14/5, adopted in November 1998), indicating that it would be in conformity with the measures required by the Convention for the Government to take advantage of the effort made by the workers in the informal sector to organize themselves with a view to seeking, through dialogue, in the spirit of Article 3 of the Convention, solutions to the employment problems arising from the existence of a very substantial informal sector. The Committee urges the Government to include full and detailed information in its next report on the employment policy measures adopted in relation to the informal sector.

*CEACR: General Observation concerning Employment Policy Convention, 1964 (No. 122) Employment policy and promotion Published: 2006 (extracts)*

In reviewing the application of Convention No. 122, the Committee has examined the information contained in Governments reports concerning employment and unemployment trends overall, and for groups historically disadvantaged in the labour market, such as young people, women, minorities, indigenous peoples and workers in the informal economy. It has also been of particular concern for the Committee to gather information about the extent to which economic growth translates into better labour market outcomes and poverty reduction. The Committee noted with interest that the social protection schemes have been expanded in Thailand where unemployment benefits have been implemented as a complement to its employment policy.

In some cases, the Committee noted the concerns voiced by the observations of the social partners concerning their insufficient involvement in the design and evaluation of employment policies. The Committee recalls that the Convention provides that the measures to be taken in relation to employment policy should take fully into account the experience and views of the social partners with a view to securing their full cooperation in formulating and implementing employment policies, including the opinions of those working in the rural sector and the informal economy. The Committee hopes that in future reports more governments will show progress in implementing the goals of Conventions and Recommendations related to employment promotion that play a critical role in combating poverty and social exclusion.

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Barbados (ratification: 1976) Published: 2008 (extracts)*

The Committee notes that the BWU's statement, which closely follows the provisions on the informal economy in the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), expresses concern that average incomes in the informal economy are lower than those in the formal economy. The Committee notes the BWU's support for policy interventions on behalf of micro-enterprises and the self-employed aimed at promoting increased access to credit facilities and market information, formal education and training and, generally, the provision of decent work in the informal economy. In this regard, the Committee refers to the conclusions of the general discussion on the informal economy at the International Labour Conference (ILC, Provisional Record No. 25, 90th Session, Geneva, 2002) and invites the Government to report on its efforts to promote decent work for informal economy workers.

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Peru (ratification: 1967) Published: 2008 (extracts)*

The Committee notes the approval of the National Plan for Promoting and Formalizing Competitiveness and Development in Micro- and Small Enterprises (MYPE) (2005-09). The National Employment Plan for 2006 concentrates on the micro- and small enterprise sector, in which most of the country's economically active population is to be found. According to the study on MYPE statistics published by the National Department for MYPE of the Ministry of Labour and Promotion of Employment (MTPE), the number of informal micro- and small enterprises is 1.8 million, compared with 648,147 enterprises in the formal sector. In general, poverty and employment in informal enterprises have a definite link, i.e. the greater the percentage of persons occupied in informal enterprises in an area, the greater the degree of poverty of its inhabitants. The Committee is aware that the informal economy constitutes a challenge for the creation of productive employment in the country – the informal economy represents 57.9 per cent of the economy in Peru, a percentage which is only exceeded in Bolivia (65.6 per cent). The Committee hopes that the Government's policies will stimulate the growth of formal micro- enterprises and that incentives will spur the formalization of informal enterprises. The Committee asks that the Government to supply information on the measures taken to increase employment opportunities, improve the conditions of work in the informal sector and facilitate the progressive integration of this sector into the national economy. Please include data on the results of the strategic components of the National Plan for Promoting and Formalizing Competitiveness and Development in Micro- and Small Enterprises for 2005-09, and in practical terms on the manner in which promoting the formalization and quality of informal employment translates into the generation of productive employment. The Committee also asks the Government to continue to supply statistics on the structure of the economically active population occupied in micro- and small enterprises and the geographical distribution thereof in both urban and rural areas.

*Article 3. Participation of the social partners.* The Committee notes with interest the activities undertaken by the National Council for Labour and Promotion of Employment (CNTPE) and the progress made by setting up a body to revise and debate draft policies or legislation with respect to employment and vocational training. The Committee asks the Government to supply information on the activities of the CNTPE and repeats its interest in examining information on the measures adopted for consulting the representatives of the informal economy with regard to the policies to be adopted in order to improve their prospects of obtaining decent work.

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Cambodia (ratification: 1971) Submitted: 2010 (extracts)*

6. *Article 3. Participation of social partners.* The Government indicates in its report that the Labour Advisory Committee has not been consulted in the development and review of employment policies and programmes. The Committee recalls that, under the Convention, governments are required to ensure that the opinions of workers' and employers' organizations, as well as workers in the rural sector and the informal economy, are to be consulted "with a view to taking fully into account their experiences and views". It asks the Government to provide concrete examples on the manner in which the views of employers, workers and other affected groups are sufficiently taken into account in the development, implementation and review of employment policies and programmes.

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Mongolia (ratification: 1976) Submitted: 2010 (extracts)*

7. *Workers in the informal economy.* The Committee notes the Government's statement that it has defined policies on informal sector employment, which is one of the challenges facing the labour market. Further to the National Policy on Informal Employment, measures were taken to coordinate the State's approach to workers of the informal economy, to provide them with information on the laws on employment and social security, to involve such workers in social and health insurance, to organize training courses to provide workers in the informal economy with knowledge of labour relations, occupational safety and health, social welfare, proper partnership and business. Furthermore, a basic survey was undertaken to identify the need for employment support and services, and to determine the employment status of women and citizens of up to 45 years of age. The Government indicates that, in order to formalize records and develop information services for informal workers, the Aimag and the labour and social welfare service agencies carried out a survey on informal workers in 2007. As a result of this survey, 80,000 people were registered and given an identity card. The Committee welcomes such approach to address the needs of workers in the informal economy. It invites the Government to include information in its next report on the implementation of measures to enable the progressive transfer of workers from the informal economy to the formal economy, and any measures to promote complementary relationships between the formal and informal economy and to provide greater access of undertakings in the informal sector to

resources, product markets, credit, infrastructure, training facilities, technical expertise and improved technologies (Part V of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)).

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Mozambique (ratification: 1996) Submitted: 2010 (extracts)*

7. *Workers in the informal economy. Support to small-sized and micro-enterprises and to cooperatives.* Concerning the measures taken under the EEPF to promote employment creation through micro-, small and medium enterprises (MSMEs) and to integrate informal economic activities into the formal sector, the Committee notes the establishment of an MSME Development Fund coordinated by the Ministry of Planning and Finance, the introduction of fiscal incentives as well as the wider access to government procurement schemes granted to local enterprises. The Committee also notes that the Government refers in its report to the adoption of active employment measures supporting associations and cooperatives in the field of production in order to favour, inter alia, the social inclusion of the vulnerable members of the population. The Committee asks the Government to continue to provide such information on the measures taken to improve the legislative and regulatory basis for micro-, small and medium-sized enterprises and cooperatives, as well as on efforts made to shift activities from the informal economy to the formal economy.

8. *Article 3. Participation of social partners in the formulation and application of policies.* In reply to previous comments, the Government states that the active participation of representatives of workers' organizations in the formulation of the employment policy has contributed to labour market flexibility and the promotion of fair labour conditions while strengthening social dialogue on issues related to employment and vocational training. Social partners participate in the mobilization of resources for the creation of an Employment and Vocational Training Fund as well as in the establishment of a Vocational Training Centre for Metalwork. They are also actively involved in the campaign for the adoption of new legislation to protect the rights of persons living with HIV/AIDS. The Committee would appreciate continuing to receive information on the participation of social partners in the formulation of the employment policy as well as on their involvement in the activities of vocational education and training institutions. Please also indicate the measures taken or contemplated to involve, in the consultations required by the Convention, the representatives of other sectors of the active population, such as persons working in the rural sector and in the informal economy.

*CEACR: Individual Observation concerning Employment Policy Convention, 1964 (No. 122) Uruguay (ratification: 1977) Submitted: 2010 (extracts)*

3. *Workers in the informal economy.* The Committee notes that, according to the National Institute of Statistics, informal employment, which is understood to mean employment not involving social security registration, stands at 33.4 per cent. The informal economy is a low-quality employment sector, which provides the Govern-

ment and social partners with the challenge of devising and implementing policies and legal frameworks to facilitate the integration of these workers into the labour market in appropriate conditions. The Committee notes that the Government has adopted various approaches, including the Domestic Work Act which promotes the registration of workers, the Employment Objective Programme which grants benefits to companies registered under the social security system and the establishment of a committee on informal employment within the context of the national commitment to employment, income and responsibilities. The Committee requests the Government to continue providing information on the measures taken to gradually integrate workers in the informal economy into the formal labour market. Please also provide information on the recommendations made by the Committee on informal employment relating to the integration of workers in the informal economy into the labour market.

4. *Cooperatives.* The Committee notes with interest that in October 2008, Act No. 18407 on cooperatives was promulgated, which aims to regulate the establishment, organization and operation of cooperatives and the cooperative sector. The Act also creates the National Institute of Cooperatives (INACOO) to promote the economic, social and cultural development of the cooperative sector and its integration into the country's development. The Committee requests the Government to provide information on the progress being made by INACOO to promote labour and social cooperatives, the objective of which is to achieve the social and labour integration of the heads of households belonging to sectors in which basic needs are not being met, young persons, the disabled, ethnic minorities and any group in a situation of extreme social vulnerability.

#### *Direct Request*

*CEACR: Individual Direct Request concerning Employment Policy Convention, 1964 (No. 122) Zambia (ratification: 1979) Submitted: 2006 (extracts)*

*Articles 1 and 2 of the Convention.* The Committee notes the Government's brief report received in October 2003 indicating that the period under review was characterized by increased formal sector employment and by increases in nominal earnings. Formal employment increased by 1.5 per cent, going from 487,340 jobs to 494,457 jobs, mainly in the private sector. This increase was a result of the increase in production, especially in manufacturing, and in wholesale and retail trade. The informal economy continued to grow in line with the growth of the labour force (mostly in the agricultural sector). In the previous comments addressed directly to the Government on the application of the Convention, the Committee already noted that it can be determined that most of those working in the informal economy can be classified as poor. Poverty is more prevalent in rural areas than in urban areas (83 per cent and 56 per cent, respectively, according to data included in the Poverty Reduction Strategy Paper, April 2002) but it has risen faster in urban areas lately due to failing industries and rising unemployment. Most of the rural poor are small-scale farmers, followed by medium-scale farmers.

*Article 3.* The Committee again requests the Government to provide details with regard to the consultations concerning employment policy. The Committee points out that this important provision of the Convention requires the involvement in consultations of government authorities and of representatives of the persons affected by the employment policy measures to be taken. The aim of the consultations is to take fully into account their experience and views and to secure their full cooperation in formulating and implementing the employment policy. Representatives of the persons affected must include representatives of employers' and workers' organizations and also representatives of sectors of the economically active population such as the rural sector and the informal economy. In view of the importance of the informal economy, the Committee would appreciate receiving in the next report information on any consultations envisaged with representatives of the rural sector and of the informal economy on the matters covered by the Convention.

### **C. Observations and direct requests linked to technical Conventions**

#### *Observations*

*CEACR: Individual Observation concerning Occupational Safety and Health Convention, 1981 (No. 155) Brazil (ratification: 1992) Published: 2006 (extracts)*

*Articles 1 and 2 of the Convention. Application of the Convention to all branches of economic activity and to all workers in the covered branches.* The Committee notes with interest the information provided regarding efforts by the Government to extend occupational safety and health protection to all Brazilian workers, inter alia, through legislation conferring the right to such protection also to workers in the informal economy of the country. The Committee welcomes this initiative, which holds an interesting promise of an increased scope of application of this Convention, and requests the Government to keep it informed not only of the progress achieved, but also of the manner in which this initiative is translated into practice.

*CEACR: Individual Observation concerning Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) Cameroon (ratification: 1970) Published: 2007 (extracts)*

*Article 1 of the Convention. Scope of application.* In its previous comments, the Committee noted that there were no provisions in the national legislation allowing the Convention to be applied to children and young persons working on their own account, employees or apprentices being covered by the provisions of Order No. 17 of 27 May 1969 and the Labour Code. It also noted that the Government had indicated once again that medical examinations for young persons were to be extended, inter alia, to young persons engaged in own-account activities in the informal economy and that some municipalities had done this for such a group of workers. The Committee likewise took note of observations by the General Union of Cameroon

Workers (GUCW) to the effect that, although provision is made for systematic inspection in the formal sector, no measures have been taken for young persons in the informal economy despite efforts under way for young people in the context of combating HIV/AIDS. The Government said in this connection that it is very difficult to get young persons in the informal economy to undergo a medical examination for fitness for employment, as it is difficult to exercise any control over employers in the informal sector. The Committee expressed the hope that the Government would take the necessary steps, with assistance from the ILO, to ensure the application of the Convention.

The Committee notes the information sent by the Government to the effect that some young persons in the informal economy undergo medical examination, such as unregistered street vendors who operate in the sales areas made available by the public services. It also notes that, according to the Government, the Ministry of Employment and Vocational Training will be informed of the comments made on this matter. The Committee again notes that the legal provisions on medical examinations for fitness for employment apply only to young persons working in the formal sector, and again reminds the Government that children employed on their own account are automatically covered by the Convention (Article 1, paragraph 1). The Committee accordingly urges the Government to take the necessary steps to ensure that the Convention is applied in both law and practice to all young workers covered by the Convention, including those working in the informal economy. In view of the fact that, according to information available at the Office, a number of children work in the informal economy, some of them on their own account, the Committee again expresses the firm hope that in its next report the Government will give an account of progress made.

*CEACR: Individual Observation concerning Human Resources Development Convention, 1975 (No. 142) Tanzania (ratification: 1983) Published: 2010 (extracts)*

2. *Article 3. Coverage by the vocational training system of vulnerable groups.* The Committee notes the information provided by the Government on the increased participation levels in secondary schools and higher learning institutions, particularly the increase in secondary school enrolment from 524,325 in 2005 to 1,222,403 in 2008. It observes, however, that the female participation ratio decreased from 47 to 44.4 per cent in secondary schools, and from 68 to 65 per cent in higher education. The Government indicates that the vocational training policy takes into account the training needs of all groups of workers; however, it refers to difficulties in balancing training provision, especially in the informal sector and between rural and urban areas. The Government also indicates that a skills training programme has been implemented by the Ministry of Labour, Employment and Youth Development, in collaboration with local government authorities, in 111 rural districts. The Committee notes that, among the specific objectives of the National Employment Policy, there is the promotion of equal access to employment opportunities for vulnerable groups, such as women, youth and persons with disabilities, as well as the enhancement of skills and competencies of workers in the informal sector, especially in rural areas.

It further notes that the Decent Work Country Programme 2006–10 includes among its priorities poverty reduction through creation of employment opportunities with a focus on youth employment issues. The Committee invites the Government to provide detailed information on the measures taken to increase gender-balanced access to education and training and to encourage women to develop and use their professional abilities in all branches of economic activity and at all levels of skill and responsibility. Please also indicate the measures taken to promote access to education, training and lifelong learning for people with specific needs, such as young persons, rural workers, workers in the informal economy, and the other categories of vulnerable persons identified in Paragraph 5(h) of Recommendation No. 195.

### *Direct Requests*

*CEACR: Individual Direct request concerning Labour Administration Convention, 1978 (No. 150) Cambodia (ratification: 1999) Submitted: 2010 (extracts)*

*Article 7.* The Committee notes with interest that the Ministry of Labour has been working with the ILO to monitor and improve labour conditions in the informal sector. Drawing the Government's attention to paragraphs 128–137 of the General Survey on labour administration, the Committee would like to request the Government to provide details on the matters covered by such cooperation, on the results achieved and expected and on any other measures taken or envisaged to gradually extend the functions of the system of labour administration to include categories of workers who are not, in law, employed persons, such as those listed in paragraphs (a)–(d) of Article 7.

*CEACR: Individual Direct request concerning Labour Administration Convention, 1978 (No. 150) Lesotho (ratification: 2001) Submitted: 2010 (extracts)*

*Article 7. Progressive extension of the functions of the system of labour administration.* Referring to paragraphs 128 – 137 of its abovementioned General Survey on labour administration<sup>5</sup>, the Committee recalls that the question of extending labour administration activities to workers who are not employed persons has become very important in many countries and that the informal sector has become increasingly important, concerning many of the workers mentioned in paragraphs (a) – (d) of Article 7 of the Convention and accounting for a substantial part of the economy of many developing countries. The Committee would be grateful if the Government would provide the ILO with information on measures taken to conduct the study on the informal sector mentioned by the Government in its first report, the purpose of which is to allow the Government to formulate a policy on the extension of the scope of labour standards to the informal sector. It also asks it to indicate any further

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<sup>5</sup> See General Survey on Labour Administration, ILC, 85<sup>th</sup> session, Geneva, 1997.

measures taken or envisaged to extend the functions of the system of labour administration to workers who are not, in law, employed persons, such as those listed in paragraphs (a) – (d) of Article 7 of the Convention.

*CEACR: Individual Direct request concerning Human resources development Convention, 1975 (No. 142) Niger (ratification: 1993) Submitted: 2010 (extracts)*

1. *Article 1 of the Convention. Adoption and implementation of policies and programmes of vocational guidance and vocational training. Close link with employment.* The Committee notes the report sent by the Government in reply to the direct request of 2004, received in October 2008. The Government again describes the various legislative measures adopted in the context of the system of education and vocational guidance. It indicates that one of the essential components of its “Fast-track development and poverty reduction strategy” deals with vocational training and that, further to the National Employment Conference held in 2007, a framework document for a national employment policy has been validated. The Committee notes these documents and notices that they underline the importance of coordinating education and training policies with employment prospects for the reduction of poverty. It notes that, in the face of illiteracy affecting some 83 per cent of the population, the Government has adopted programmes to support education and vocational and technical training, including: “Ten-year programme for the development of education (PDDE)” and the “National youth placement programme”. Moreover, the Government points out that a “Vocational training and apprenticeship support fund (FAFP)” has been established in order to provide training for persons originating from the informal, craftwork and rural sectors. The Committee requests the Government to supply detailed information in its next report on the results achieved by the programmes, particularly in terms of vocational training and job placements for beneficiaries.

2. *Article 1, paragraph 5. Equal opportunities.* In its “Fast-track development and poverty reduction strategy”, the Government states that the gender gap in the fields of education and vocational training is still substantial. According to UNDP estimates, the proportion of women in education or training is 10.2 per cent compared with 18 per cent for men. In its national employment policy, the Government indicates that support projects and programmes have been established, particularly in connection with small enterprises in the informal sector, apprenticeships and family assistance, in which the majority of persons employed are women or young persons. In this respect, the Committee requests the Government to provide up to date information on the steps taken to encourage women, young persons and other categories of vulnerable workers, such as those working in the informal economy, to develop and use their vocational skills in all branches of activity and at all levels of qualification and responsibility.

3. *Article 3. Information systems.* The Government indicates that information on systems of vocational guidance and vocational training is prepared and transmitted by

the various structures responsible for employment and vocational training, such as the National Agency for the Promotion of Employment and the Vocational Training and Apprenticeship Support Fund. The Committee reiterates that it is important for each Member to “gradually extend its systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available”. In this respect, it requests the Government to indicate the steps taken to ensure that comprehensive information and the broadest possible guidance are available to all children, young persons and adults (Article 3, paragraph 1). It also requests the Government to describe the type of information for vocational guidance purposes and supply specimens of the documentation made available (Article 3, paragraphs 2 and 3).

## II. Cases of the Conference Committee on the Application of Standards related to the informal economy

Since the Conference Committee’s discussions of individual cases are based on the comments published by the Committee of Experts in its annual report, this explains why the extracts of the following cases are also recent and cover a period between 2004 and 2009. While some of the cases that raise issues relevant to the informal economy relate to employment policy or discrimination, most of the cases once again concern Conventions on child labour. In most of these cases, the Conference Committee has emphasized the importance of a cooperative framework between the ILO and its member States to deal with the informal economy’s lack of labour rights protection. The Committee has also insisted on the need for labour inspectors to be better trained to enhance communication with the informal economy’s actors and has stressed the need to collect better statistical data related to this sector in order to give a clearer definition of the informal economy. Another key element emphasized by the Committee is the fact that in order to address workers’ issues in the informal economy, governments have to ensure that employment, as a key element for poverty reduction, is at the heart of macroeconomic and social policies. Finally, the Conference Committee has often recalled that all its comments aim at improving a better implementation of Conventions’ provisions by giving a full effect to these provisions, which are basically relevant to both workers in the formal as well as in the informal economy. The following extracts of individual cases discussed by the Conference Committee in recent years have been divided by subjects.

### *CHILD LABOUR*

*Examination of individual case concerning Convention No. 138, Minimum Age, 1973 Ukraine (ratification: 1979) Published: 2004 (extracts)*

A Government representative (Minister of Labour and Social Policy) noted that the deep changes that Ukraine was undergoing had brought to the surface issues of child

labour. The elimination of the worst forms of child labour remained of paramount importance in the framework of the International Programme for the Elimination of Child Labour (IPEC), which commenced in Ukraine in July 2001. According to the terms of a Memorandum of Understanding between the ILO and the Government of Ukraine, a Supervisory Council had been established with the participation of the representatives of six Ministries, workers' and employers' unions as well as non-governmental organizations concerned with child protection. The Strategy Paper for the elimination of the worst forms of child labour as well as the related Plan of Action were adopted in June 2003. These documents focused on the following areas: the elimination of poverty; the realization of the decent work concept; the creation of mechanisms concerned with illicit child labour; the establishment of a social assistance system; the rehabilitation of children withdrawn from the worst forms of child labour; the improvement of the professional education system; the strengthening of family institutions; recreation for children; the establishment of institutions to organize recreational activities for children; the improvement of legislation governing child labour; and public information related to the issues of child labour. The new draft Labour Code, in its section 286, prohibited the worst forms of child labour, including physical, psychological or sexual violence against children, as well as work which adversely affected the health and morality of children. Labour inspection played an important role in increasing the efficiency of supervision in matters of child labour. It covered the working conditions of children, the level of wages, periods of rest and the respect of guarantees accorded to young persons. The control in the informal economy represented a major problem in Ukraine. The Government had submitted to Parliament a draft law for the ratification of the Labour Inspection Convention, 1947 (No. 81). The Government hoped to benefit from the technical assistance of the ILO for the implementation of the said Convention and for the carrying out of a statistical survey of child labour in the informal sector. This could be organized in the second phase of the IPEC programme scheduled for 2005.

The Worker members stated that Ukraine, like many other states of Central and Eastern Europe and, in particular, those former republics of the Soviet Union, faced major challenges in meeting obligations under a range of ratified Conventions due to economic, social and political problems stemming from the breakneck pace of deconstruction of previous social structures and infrastructures, including social security safety nets, the rapid introduction of an unregulated economy, and the extensive influence of organized crime. Both trade union federations in Ukraine were of the view that child labour was increasing in the informal economy, in which the Government had virtually no control. He asked the Government to indicate how it intended to extend the actual reach of labour inspection services so that all citizens were protected by the rule of law. Comprehensive application of labour inspection was essential if child labour was to be eliminated. All workplaces had to be open to labour inspection, otherwise hidden forms of child labour would not be discovered. The Workers would be interested to hear from the Government what measures it intended to take in order to strengthen the tripartite and broad social alliance in Ukraine to combat child labour, and the role that an innovative labour inspectorate was expected to play in such an alliance.

The Employer members noted that this case concerned Convention No. 138, and not Convention No. 182. They recalled that the Committee of Experts had begun making comments on this case in 1997. It was not clear from the observation of the Committee of Experts what legislation or labour inspection system was in force to implement the obligations of the Convention in all sectors of the economy. It was also not clear from the Government's statement when sections 188 and 190 of the Labour Code had come into effect. This information should be supplied to the Committee of Experts in a written report for further examination. They also noted the Government representative's reference to employment services for young persons and to the fact that over 33,000 young persons were currently registered with these services. They noted that providing work to children on the basis of their economic need, such as in the case of orphans, might be contrary to certain principles in Convention No. 138. Moreover, the provisions of the draft Labour Code regarding light work should be equally submitted to the Committee of Experts for examination. The Employer members noted that ILO assistance had already been provided and that further assistance would be needed. They noted with interest that Convention No. 81 was before Parliament but recalled that labour inspection only concerned the formal sector and therefore further efforts would be needed to address the crucial problem of child labour in the informal economy. The ILO should provide assistance in carrying out a comprehensive survey of child labour in Ukraine. They concluded by noting that the Government was making real efforts in this regard and hoped that it would meet the challenge of applying the Convention fully in law and practice.

## Conclusions

The Committee noted the information provided by the Government representative and the discussion that followed. The Committee noted the statement by the Government representative that the various matters raised by the Committee of Experts would be taken into consideration. The Committee noted in particular the indication by the Government representative that a technical cooperation programme with ILO/IPEC had recently been launched. The Committee took due note that this programme would focus, *inter alia*, on building the institutional and technical capacity of the Government and the social partners to apply Convention No. 138 as well as the Worst Forms of Child Labour Convention 1999, (No. 182). The Committee expressed the hope that this technical cooperation programme would address the situation of children below the age of 16 working in the informal sector including by enhancing the capacity of the labour inspectorate in the informal economy. The Committee requested the Government to provide, in its next report to the Committee of Experts, information on the implementation of this technical cooperation programme as well as on the results achieved in eliminating child labour in the informal sector. Furthermore, the Committee requested the Government to provide information in its next report containing statistics on the number and the age of children working in the informal sector.

Recalling the fundamental importance of Convention No. 138 for the abolition of child labour, and particularly the importance of establishing the minimum age of 16 years, as specified by the Government upon ratification, for admission to employ-

ment or work in all sectors, the Committee requested the Government to take the necessary steps, in practice, to ensure that no one under the age of 16 was admitted to employment or work in any occupation. In this regard, the Committee recalled that compulsory education was one of the most effective means of combating child labour, and that it was desirable for the age of completion of compulsory schooling to correspond to the minimum age for admission to employment or work. The Committee requested the Government to clarify the situation with regard to the age of completion of compulsory schooling and the minimum age for admission to employment or work and to indicate the relevant national provisions applicable in this regard. Finally, while noting that national legislation prohibited the employment of young persons under 18 years of age in any type of employment or work which, by its nature or the circumstances in which it was carried out, was likely to jeopardize their health, safety or morals, in conformity with Article 3 of the Convention, the Committee expressed its concern over the situation of many young persons under the age of 18 who increasingly worked in hazardous work in practice, in particular in the informal sector. The Committee noted with interest that the Labour Inspection Convention, 1947 (No. 81) was currently before Parliament for ratification.<sup>6</sup> The Committee also invited the Government to provide detailed information on the manner in which Article 3 of the Convention was applied in practice, including for example statistical data on the employment of children and young persons in hazardous work, extracts from the reports of inspection services and information on the number and nature of contraventions reported. The Committee confirmed that the ILO would provide all necessary technical assistance to the Government in order to carry out a survey on the situation of child labour in the informal sector.

*Examination of individual case concerning Convention No. 182,  
Worst Forms of Child Labour, 1999 Gabon (ratification: 2001)  
Published: 2007 (extracts)*

With regard to the sale and trafficking of children, the Government representative indicated that all of the legislation requested had been sent on time to the ILO Sub regional Office in Yaoundé and would be available to the Office. Furthermore, with respect to the supervisory mechanisms, the Council to Prevent and Combat the Trafficking of Children had been created in September 2004, but was not yet functioning. The current relevant technical body was the follow-up committee which supervised the vigilance committees, which were regional structures devoted to overseeing the phenomenon in the interior of the country and taking responsibility for the victims. The current legislation authorized the national authorities, including the labour inspectorate, to arrest anyone employing minors. The Committee of Experts would be kept informed of the activities of all these different bodies.

The Government had also taken certain steps, in particular awareness raising for trade unions in the transport sector and small enterprises, to protect independent

<sup>6</sup> In fact, Ukraine ratified Convention No. 81 on 10 November 2004, just a few months after the discussion before the Conference Committee during the International Labour Conference.

workers under 18 years of age from work which, by its nature or the circumstances in which it was carried out, was likely to harm their health or morals. It was also envisaging the possibility of adopting the measures recommended by the Committee of Experts to increase the number of police at terrestrial, maritime and aerial borders, and to set up joint border patrols and open transit centres at the borders of neighbouring countries.

The Government representative concluded by reaffirming the willingness and commitment of his Government to implement the recommendations of the Committee and requested ILO technical assistance to improve the application of the ratified instruments and Convention No. 182 in particular.

The Employer members thanked the Government for the information provided that seemed to address the Committee of Experts' requests. The Government needed to provide this information in report form to the Committee of Experts. The case concerned serious issues regarding the incidence of child labour, trafficking of children within and across borders, the treatment of children rescued from child labour, and investigative matters – all problems which the Government had acknowledged, having ratified the Convention in 2001 and signed a Memorandum of Understanding with IPEC in 2003. There was every indication that the Government was, in a formal way at least, participating in dialogue with the Committee of Experts and the ILO supervisory mechanisms.

He noted that the matter was likely to be ongoing given its serious nature, the large informal economy and its very magnitude. It was, however, vital to ascertain whether the problem was getting better or worse. In 2004, the Committee estimated about 25,000 children working in the country, of which 17-20,000 were victims of trafficking, with 95 per cent of this occurring in the informal economy. However, neither the Committee of Experts' report nor the Government's reply provided more recent comparative data. It was difficult to know what was working and what was not, a question that was at the heart of the Government's obligations under the Convention.

Further information was required on the harmonization initiatives mentioned in the context of a wider sub regional project, including two new decrees in 2005, and on the administrative council established to prevent and combat the problem, as well as on its tripartite representation. Further information was also required on the information campaign, which should be spread to other towns across the country. Of equal relevance were the steps being taken under the Convention to provide assistance to children rescued from trafficking, including the provision of medical and social assistance, education and training. The Government had not provided adequate material to the Committee of Experts in this respect, though reference had been made to a procedural manual.

The Worker members said that none of the information that had been provided by the Government in this session figured in the report of the Committee of Experts

and it would have been preferable to have had it earlier. Despite the measures mentioned, the situation remained alarming. The sale and trafficking of children was a crime against humanity and could threaten the future and the very survival of a country, or even a continent.

It was important to emphasize awareness raising for underprivileged families and cooperation with the governments of the countries of origin. Côte d'Ivoire, Mali and Burkina Faso had set up systems to stem child trafficking, which could be of interest to the Government. The speaker concluded by requesting the Government to show genuine political will without which nothing could be achieved.

The Worker member of Gabon said that child labour was a scourge in West Africa and had extended to Asia. Foreign children living in Gabon were very often engaged in the informal economy as domestic workers, street vendors and beggars. Faced with this shameful phenomenon, the Government of Gabon, in collaboration with the social partners, had taken action since 2001 through awareness and denunciation. National campaigns against child labour had been launched in the major economic centres of the country: publicity posters and television advertisements on children's rights and parents' responsibilities; systematic police controls and other enforcement operations. Despite the efforts made by the Government, the problem remained, particularly due to the lack of collaboration from diplomatic representatives of the countries concerned, as well as continued increase in migrant flows. Gabon was a country with a 800 km coastline and important virgin forests, unable to deal with this curse undoubtedly caused by migratory flows.

The Employer member of Gabon remarked that her experience of ILO work and the practical situation in her country confirmed the observations made by the Committee of Experts as far as child labour was concerned. While the current situation in Gabon could not be considered as making progress, the Government should nevertheless be encouraged to request ILO technical assistance. The Government had, in fact, ratified the Convention in particular circumstances and committed to eliminating the worst forms of child labour as well as trafficking of children. The economic activities that led to these worst forms were exclusively illegal activities that were part of the informal economy. Child victims of trafficking forced into the worst forms of child labour were often involved along with their parents who themselves were victims of trafficking or handicapped in some way.

Therefore, technical cooperation provided by the Office could be of multiple types. It could involve actors from countries where trafficking existed to permit integrated field work to sensitize traffickers involved in illegal entry of children into the country. Labour inspectors could also be better trained and therefore better communicate with actors in the informal economy who made use of the worst forms of child labour. Multidisciplinary teams could teach the children involved and their parents about the evils of the phenomenon and of the importance of education in improving living conditions.

After recalling the provisions of the Convention's preamble, she mentioned Article 7 which concerned measures which ratifying States committed to take to ensure the implementation and respect for these provisions. Although it was a destination country for trafficked children, Gabon's efforts in the elimination of the worst forms of child labour should be recognized. She concluded by inviting the Government to supply the Committee of Experts with all the information it had requested.

## Conclusions

The Committee noted the detailed information provided by the Government outlining the comprehensive measures taken to prohibit and eliminate the sale and trafficking of children, as well as the action programmes that had been adopted in collaboration with ILO/IPEC to remove children from such situations. The Committee also noted that the Government of Gabon had expressed its willingness to continue its efforts to eradicate such situations with the technical assistance and cooperation of the ILO. In this regard, the Committee urged the Government to undertake a National Study on Child Labour to assess the extent of the worst forms of child labour in the country.

While welcoming the measures taken, the Committee urged that children would no longer continue to be victims of trafficking, and that those responsible would be punished. In this regard, the Committee requested the Government to expand the authority of labour inspectorates in enforcing the law and to increase the human and financial resources of the labour inspectorate. It requested the Government to ensure that regular visits were carried out by the labour inspectorate and that persons who infringed the Convention were prosecuted and faced sufficiently effective and dissuasive sanctions.

Moreover, underlining the importance of free, universal and compulsory formal education in preventing the worst forms of child labour, the Committee invited the Government to take the necessary measures to ensure access to free basic education for both boys and girls.

Finally, the Committee requested the Government to provide detailed information on effective and time-bound measures taken to remove the children who were victims of trafficking from hazardous work and to provide for their rehabilitation and social integration, in conformity with Article 7(2) of the Convention. These measures should include the repatriation, family re-unification and support for former child victims of trafficking. The Committee insisted on the need for cooperation with the States involved.

*Examination of individual case concerning Convention (No. 138): Minimum Age, 1973 Zambia (ratification: 1976) Published: 2008 (extracts)*

A Government representative reported that there had been a remarkable decline in the number of out-of-school children. In 2006, the country recorded an average of

only 11.2 per cent of out-of-school children between the ages of 7 and 18 according to the 2006 Education Statistical Bulletins. In 2007, Bulletins revealed that the number of schools offering grades 1 to 7 increased from 4,021 in 2006 to 4,269 in 2007, whilst the ones offering grades 1 to 9 increased from 2,221 to 2,498 during the same period. Similarly the gross enrolment ratio for grades 1 to 9 had increased steadily from 2003 to 2007. These improvements were attributed to the sustained government policy of encouraging private providers of education registered with the Ministry of Education since 2007 and the increase in the various forms of educational institutions that had been set up from kindergarten to private skills training colleges and universities. The Government had also taken other positive measures such as the introduction of free education and allowing the readmission of pregnant teenage girls into schools after giving birth. In addition, the Government had adopted a policy to upgrade primary schools into basic schools in order to ensure that children had access to basic education up to grade 9.

The Government reaffirmed its commitment to combating child labour despite many difficulties such as the rampant nature of the problem in the informal sector. Zambia, like many other developing countries, was confronted with the challenges of growth and development coupled with rapid expansion of the informal economy as an alternative source of livelihood for the majority of the poor. Despite these challenges, the Government had taken a number of measures in collaboration with IPEC and progress was being made in reducing the high incidence of child labour in the most predominant informal economic activities such as agriculture and quarrying.

In 2001, the Government ratified the Worst Forms of Child Labour Convention, 1999 (No. 182) in order to bolster compliance with Convention No. 138. A multidimensional approach to combat child labour had been adopted, giving specific attention to the informal economy. In this regard, concerted efforts were being made by the Ministries of Labour and Social Security, Community Development and Social Services, Education, Youth Sport and Child Development, and Home Affairs under the ILO supported Time-bound Programme. Under the auspices of the Ministry of Labour and Social Security, a National Steering Committee had been formed and District Child Labour Committees were being used to facilitate the creation of Community Child Labour Committees to set a stage for grass-roots intervention. The composition of these committees was based on the nature, magnitude and complexity of the child labour scourge in a particular locality.

The Worker members welcomed the information provided by the Government representative. Noting the "triangular paradigm" of the Global March against Child Labour (education, child labour elimination and decent work), they recalled that the report of the Committee of Experts considered four key elements: the need for free and compulsory basic education up to the minimum age for entry into employment; the fight against the prevalence of child labour in agriculture and the informal economy; the need for accurate statistics; and the effectiveness of programmes supported by IPEC. The Government of Zambia's appearance before the Committee had in no way detracted from the efforts it was making, in collaboration with IPEC, to meet its obli-

gations. But the report demonstrated the need for greater efforts to bring law and practice into conformity with the Convention. Zambia did not yet have a system of free, compulsory, formal, public education and, thus, would not be able to succeed in eliminating child labour. Primary education had been declared free, but despite some bursaries for vulnerable children, hidden costs such as school uniforms and school books acted as barriers to the attendance of children from poor families who were most likely to become child labourers. Although the state education budget had increased, leading to recruitment of much needed new teachers, it still trailed behind regional benchmarks. Despite substantial donor funding, there was an acute need for more class rooms and equipment.

Furthermore, data collection and enforcement remained inadequate, and the figures provided in the Committee of Experts' report required clarification. There had been no survey since 1999 when half a million children were working, and not just in the informal economy (including domestic service) but also in large-scale farming. The Worker members looked forward to the completion of the National Labour Force Survey and would have welcomed more information about the sectoral and geographical incidence of child labour and action in those sectors. The Labour Inspectorate should be strengthened and the Government should also refer to the recommendations of the regional tripartite meeting of experts held in Harare in 2001 on the role of labour inspection in combating child labour.

The Employer members underlined that, according to 1999 data from IPEC, in Zambia, 11.3 per cent of boys and 10.3 per cent of girls between 5 and 14 years of age were actively involved in some working activity. Seven per cent of these children were reported not to go to school.

Regarding compulsory education, according to the Committee of Experts, some progress had been achieved. At present, primary education was free and there was a commitment to extend free education until the 12th degree. Moreover, a basic programme of investment in the education sector was being implemented. However, the Government did not provide information allowing the evaluation of progress achieved, particularly with regard to school drop-out rates, especially in rural areas where the higher number of cases of child labour was detected.

The Employer members recognized the difficulties faced by Zambia regarding the economic situation, as well as the need for cooperation in order to further develop and eradicate poverty, which was a key element in combating child labour. However, they also emphasized that the improvement of the education system should be a priority. Zambia recently experienced an important economic evolution producing a 5-6 per cent GNP growth. An improvement in the political situation was also registered. In the framework of a global strategy to combat child labour, the Employer members stressed the importance of taking advantage of these improvements in order to further strengthen compulsory education. In this regard, they urged the Government to redouble its efforts to obtain and provide statistical data on the number of children not attending school, as well as on school attendance and drop-

out rates. They also urged the Government to provide information on the measures taken, including through international cooperation, to extend compulsory education at least until the 12th degree.

The Employer members observed that the IPEC programme, by identifying and preventing some cases of child labour, had achieved important results. The major problem consisted in the high percentage of children working in the informal economy, especially in the agricultural sector, where the highest rates of child labour were reported (around 90 per cent of the total child labour in the country).

In Zambia, as in other African countries, the problem of child labour was aggravated by the plight of HIV/AIDS. According to data from the ILO/IPEC, in Zambia, which had a population of 11.8 million people, more than 630,000 children were orphans. A high rate of these children lost their parents due to HIV/AIDS.

Finally, the Employer members appreciated the Government's initiative regarding the creation of District Child Labour Committees which would possibly solve existing problems in an effective way.

The Worker members welcomed the Committee's fruitful discussions on the application of the Convention by Zambia. They particularly noted the Government's readiness to engage in social dialogue on child labour issues, as well as the additional information provided concerning labour inspection and the tax regime for mining companies. With many challenges ahead, including with regard to the informal economy, Zambia should continue to rely on innovative approaches.

## Conclusions

The Committee noted that the report of the Committee of Experts referred to comments from the International Trade Union Confederation relating to the absence of compulsory schooling for children as well as the large number of children under the minimum age who worked in the informal economy.

The Committee noted the detailed information provided by the Government outlining laws and policies in place to provide free primary education as well as action programmes that had already been undertaken in collaboration with ILO-IPEC to remove children from situations of child labour. The Committee also noted that the Government of Zambia had expressed its willingness to continue its efforts in cooperation with the social partners to eradicate child labour with the technical assistance and cooperation of the ILO.

The Committee further noted that a number of measures were being taken by the Government to address the situation of many children under the minimum age who increasingly worked in the informal economy, often in hazardous work. The Committee recognized the importance of policy coherence and encouraged international cooperation in order to promote poverty eradication, sustainable and equitable

development and the elimination of child labour. It nevertheless strongly encouraged the Government to improve the situation, notably by taking the necessary measures to further strengthen the capacity of the labour inspectorate and to promote the work of District Child Labour Committees.

The Committee also invited the Government to provide comprehensive information in its report when it is next due, on the manner in which the Convention was applied in practice, including in particular enhanced statistical data on the number of children working in the informal economy, their ages, gender, sectors of activity, extracts from the reports of inspection services and information on the number and nature of contraventions reported and penalties applied. The Committee encouraged the Office to continue to provide technical assistance to the Government and the social partners to encourage their efforts.

### *DISCRIMINATION*

*Examination of individual case concerning Convention No. 100:  
Equal Remuneration, 1951 Mauritania (ratification: 2001)  
Published: 2009(extracts)*

A Government representative stated that Mauritania had been a Member of the ILO since 1961 and had ratified, to date, some 40 conventions, including the eight fundamental Conventions. It was and would remain strongly committed to the values of justice and social peace, which had been the foundation of the ILO throughout its 90 years of existence. The Government was committed to translating these Conventions into national law, enforcing them and submitting regular reports on their implementation. Mauritania had also provided, in a timely manner, all reports due for the year 2008 in accordance with article 22 of the ILO Constitution and the lack of response to the observations of the Committee of Experts on Convention No. 100 was due to a simple omission.

He stated that the claims that women were marginalized in Mauritania were unfounded and that the emancipation of Mauritanian women was a firm reality; women were present in all areas of decision-making. The democratic institutions were characterized by a significant proportion of women, particularly in the National Assembly (17 per cent) and the Senate, as well as in municipal councils (30 per cent). There had been a minister responsible for promoting women's position in society for over 20 years. Many women had held, and still held, ministerial posts as well as senior positions within the State, such as ambassadors, general secretaries to ministers, heads of ministerial departments, and governors of Wilayas. There was also a significant female presence in the national guard and the police forces. Similarly women were also present in the national army working as doctors.

With regard to legislation, Article 191 of the Labour Code referred to Article 37 of the General Collective Labour Agreement, which clearly set out the principle of equal pay for work of equal value. In other words, for equal conditions of work and of pro-

ductivity, salaries were equal for all workers regardless of their background, gender, age or status.

In conclusion, the speaker referred to the ILO Declaration on Fundamental Principles and Rights at Work of 1998, which held that the Conventions it referred to were universal and applied to all peoples and all States, regardless of their level of economic development. Mauritania was fully committed to this principle and, within the framework of the revision of the Labour Code; the necessary amendments would be made so that all provisions were in conformity with the ILO Conventions to which Mauritania was a party. In addition, efforts made by the Government, with the technical support from the ILO Subregional Office in Dakar, for the establishment of an information system and a database of labour statistics would provide as soon as possible reliable statistical information and thus respond to questions relating to wage levels. Finally, the speaker indicated that the Government would spare no effort to reflect the comments of the Committee regarding the application of Convention No. 100.

The Worker members supported the request of the Committee of Experts relating to the adaptation of national legislation to give full expression to the principle of Convention No. 100, with the technical assistance of the Office. They asked the Government to provide reports and information necessary to follow up on this matter and to revive the wage negotiations with the representative organizations of workers and employers, with particular attention to reducing the wage gap between men and women. It was very important not to limit activities in this area to the formal economy. In fact, a large proportion of women worked in the informal sector and an appropriate policy was necessary in this field, first in order to ensure respect for equality in the informal sector and, more importantly, for the transition of women into the formal economy, which offered more protection and social guarantees for the application of labour standards.

## Conclusions

The Committee noted the statement of the Government representative and the discussion that followed. The Committee observed that the Committee of Experts had referred to the significant gender segregation of the labour market and the very considerable remuneration gap between men and women, attaining on average 60 per cent. The Committee of Experts had also drawn attention to the provisions of the Labour Code and Act No. 93-03 on the public service and the need to ensure that full legislative expression was given to the principle of equal remuneration for men and women for work of equal value set out in the Convention.

The Committee took note of the information provided by the Government concerning the representation of women in the labour market, including in state institutions and in high-level posts in the civil service. It also noted the Government's commitment to bringing the legislation into conformity with the Convention and its request for technical assistance in this regard.

The Committee stressed the important role of employers' and workers' organizations in giving effect to the Convention, set out in Article 4. In this context, the Committee urged the Government to reinstate genuine social dialogue in the country, including on the issue of ensuring equal remuneration for men and women for work of equal value and decreasing the wage gap.

The Committee urged the Government to amend its national legislation so as to ensure that full expression was given to the principle of the Convention, in both the public and private sectors. The Committee also urged the Government to examine the causes of the very high remuneration gap that existed between men and women in the country, and to take the necessary measures, including through a broader range of opportunities for education and training, in consultation with employers' and workers' organizations, to reduce this gap, including in the informal economy, and to increase women's opportunities to access a wider range of jobs and occupations, including those with higher levels of remuneration.

While noting the information provided by the Government regarding the increased representation of women in posts of responsibility, the Committee considered that substantial efforts were necessary to significantly reduce, in an effective and verifiable manner, the existing remuneration gap between men and women. In this context, the Committee noted the ongoing efforts regarding the development of a labour market information system, and stressed the importance of the collection and analysis of detailed statistical data on the distribution of men and women in the various economic sectors, jobs and occupations and their corresponding levels of remuneration.

The Committee requested that, once a climate conducive to social dialogue was re-established, ILO technical assistance be provided regarding data collection and analysis and to assist the Government, in collaboration with the social partners, to bring its law and practice fully into line with the Convention. The Committee requested the Government to provide full information to the Committee of Experts in its report when it was next due on all the matters raised by the Committee.

### *EMPLOYMENT POLICY*

*Examination of individual case concerning Convention No. 122, Employment Policy, 1964 Thailand (ratification: 1969) Published: 2006 (extracts)*

With regard to labour market information, the Government representative informed that the DOE had created a nationwide unemployment registration system and a labour market information network linking public and private employment services at the national, regional, provincial, district and community levels. The DOE published a monthly labour market information magazine, a quarterly magazine and an annual magazine. The DOE had also developed labour market indicators to create an early warning system and to guide policy by analysing and setting indicators on labour

market issues, revenue and labour productivity. Turning to the subject of the prevention of discrimination and the equality of treatment for men and women in general, the objective was to achieve equality of opportunity for men and women workers in access to employment, education and training. The Government followed the constitutional principle that all persons were equal before the law and enjoyed the same protection, emphasizing that men and women enjoyed equal rights while discrimination on the grounds of sex was prohibited. In relation to persons with disabilities, he indicated that specific projects were being implemented to support employment opportunities, including: a project for skill development of disadvantaged women in the northern area; a project for the part-time employment of disadvantaged youths, persons with disabilities and orphans; a project to provide introductory courses for future employees which provided trainers with general knowledge in the areas of intimate relations, HIV/AIDS prevention, drug abuse, environment and energy preservation, children's rights, gender status, labour law and career search techniques; and a project, undertaken in cooperation with UNICEF, to promote employment opportunities for juvenile delinquents.

He added that a scheme had been established to register illegal migrant workers and, although it had not reached those concerned, the registration of many thousands of migrant workers had improved their situation. The scheme aimed at providing illegal migrant workers with legal rights and benefits that were equal to those of Thai nationals and had been established in accordance with the Working of Aliens Act, 1978, and the relevant Cabinet resolutions. Further Cabinet resolutions had been adopted to achieve a reduction in the number of illegal migrants from neighbouring countries and to allow those registered under the scheme in 2004 to stay and work in Thailand until 30 June 2006. These migrant workers were allowed to work as unskilled workers and housemaids and to accompany their employers when travelling to other areas. They were also allowed to work with new employers if they faced problems of unfair working conditions. In 2005, a total of 705,293 migrant workers had requested a work permit, mainly from Myanmar (75 per cent), as well as from Cambodia and the Lao People's Democratic Republic. In relation to workers in the rural sector and the informal economy, he informed the Committee that measures had also been taken to improve the productivity of homeworkers, firstly by enabling them to obtain work contracts from employers qualified to this effect, secondly through training courses in basic business disciplines, such as accounting, management and legal knowledge, and skills development in producing high-quality products. The Fund for Homeworkers had been established so that they could borrow money to buy raw materials and machines to manufacture products. The DOE was also in the process of drafting an employment promotion law to obtain high-quality data on employment and unemployment and to integrate them into a long-term plan to develop human resources in Thailand through educational institutions.

Finally, he stated that his Government had given a significant role to consultation on labour matters in various tripartite bodies. With regard to the consultations held with representatives of the informal economy and the rural sector, Thailand had coop-

erated with the ILO Regional Office in Bangkok in implementing a programme for the informal economy with a view to providing greater protection for the workers concerned. Seminars and workshops had been organized and research conducted to raise awareness and enhance capacity to pave the way for the extension of labour protection. Draft legislation was also being prepared for the protection of informal economy workers.

The Employer members thanked the Government representative for the information provided and recalled that the Convention called for the implementation of active policies aimed at guaranteeing full, productive and voluntary employment. Such policies had to be periodically reviewed and formulated in consultation with the social partners. They pointed out that this was the first time that this case was being examined and that the Committee of Experts had only made one observation on the case. They emphasized that Thailand had experienced one of the highest rates of economic growth in the region since 2002, which had made it possible to reduce unemployment to 1.8 per cent despite the devastating effect of the tsunami and the increase in the price of oil. They then referred to some of the issues raised by the Committee of Experts. With regard to the first point, in relation to which the Committee of Experts had requested information on the development of unemployment benefits as a complement to employment policies, they maintained that the question was only meaningful in the context of the Convention to the extent that it was linked to the effectiveness of active employment policies, or in other words, how successful passive policies or benefits were in encouraging a return to work when combined with active employment policy measures. With regard to the second point, the Committee of Experts had mentioned the coordination between macroeconomic and social policies with a view to alleviating and eliminating poverty. In this respect, it was necessary to conduct an assessment of the impact of the Government's social and macroeconomic policies based on any data the Government representative might be in a position to provide. The Committee of Experts had also commented on the relationship between labour market and training policies. In this respect, they emphasized that, in the context of policies aimed at promoting full employment, the issue of training was essential considering the growing need for updating workers' competencies. They agreed on the need for information on the effectiveness of such policies and the participation of workers' and employers' organizations in their formulation and application.

The Committee of Experts had also requested information on the progress made to promote the access of persons with disabilities to employment. A process to amend the Rehabilitation of Disabled Persons Act was apparently under way. On this matter they emphasized the need to adopt effective measures and programmes to eliminate physical barriers and training deficiencies and to promote the recruitment of persons with disabilities in the private sector. With regard to the policies aimed at preventing abuse in migrant labour recruitment, there was no data on which to assess the extent of the problem. In any case, migrant labour policies had to provide support measures to ensure a better social and cultural integration of migrant workers. With reference to the Committee of Experts' comments on the measures adopted to

increase employment opportunities in the rural sector and in the informal economy, the Employer members observed that the macroeconomic, fiscal, training and labour policies as a whole had to lead to a decrease in the informal economy or to its incorporation into the formal economy so as to guarantee better working conditions for all workers. In conclusion, they emphasized the importance of a stable macroeconomic situation, which promoted the competitiveness of the business world as a key factor in wealth and productive job creation. Based on the available data, it could be inferred that the recent trends in the Thai economy had had a very positive impact on the employment situation. They also requested the Government to continue to supply information in this respect.

The Worker members thanked the Government for the additional information. A reading of the Committee of Experts' comments gave the impression that, although some progress had been made, there was still much to be done. However, the information provided by the Government representative had shed some light on the ambiguity apparent in the comments. With regard to the Committee of Experts' request for better coordination between the Government's employment and social protection policies, the Worker members noted with satisfaction the measures taken by the Government, namely the establishment of a system of unemployment benefits and a universal health-care scheme. Concerning the coordination of the employment policy with poverty reduction, they emphasized that, although the number of persons living in poverty had shown a decreasing trend since the financial crisis of 1997, it was not significant enough. Moreover, it was not clear whether the employment policy applied to workers in the rural sector and informal economy. With regard to vocational training programmes put in place for vulnerable groups, the Worker members indicated that, although there had been positive results for the employment of young persons, there was very little information on women in poor areas and homeworkers. Furthermore, despite the progress made by the Government, the employment policy had not succeeded in eliminating a certain number of discriminations. Although there were fewer women workers than men workers, women were always over-represented in activities which did not ensure a stable income, such as home work, agriculture and manufacturing. Persons with disabilities were paid two-thirds of the wages of other workers. Moreover, although there were several guidance and vocational training programmes for workers in the rural sector and informal economy in the villages, among which the project to increase their productivity and safeguard their occupational safety and health of homeworkers, which had been set up with ILO cooperation, the results of these programmes were not available. Migrant workers on the other hand, were still victims of abuse as regards both recruitment and exploitation at work. It was difficult to understand the Government's decision to turn down an ILO project in favour of migrant workers. Finally, with regard to tripartite consultation on employment policy, although the Government had taken into account some of the recommendations in establishing its unemployment insurance system, it had not done likewise in its capacity-building policy. In conclusion, the Worker members noted that it would have been better if the Government's information had been sent earlier to the Committee.

## Conclusions

The Committee noted with interest the detailed and comprehensive information provided by the Government representative concerning the observation formulated by the Committee of Experts. This information related to the most recent labour market trends, including the measures taken with a view to promoting employment generation, skills development and social protection, as well as measures concerning special categories of workers, including migrant workers. It further noted the technical assistance available to the Government and to the social partners through the ILO Sub regional Office in Bangkok. This technical assistance might strengthen the involvement of employers' and workers' organizations in the design and implementation of an active employment policy in conformity with this priority Convention.

The Committee further noted the tripartite discussion that took place, and in particular the concerns expressed by various speakers with regard to the opportunities for women workers, workers with disabilities and workers in the rural sector and the informal economy to obtain and retain jobs and to promoting equal access to education, training and employment. The Committee noted that there was a need for action within the framework of an active employment policy to promote the effective integration of migrant workers and to prevent cases of abuse or exploitation. It also encouraged the Government to consult both employers' and workers' organizations to achieve this goal. The Committee, like the Committee of Experts, stressed that the need for measures to ensure that employment, as a key element for poverty reduction, was at the heart of macroeconomic and social policies.

### III. Cases of the Committee on Freedom of Association related to the informal economy

The ILO has defined workers in the informal economy very widely as "both wage workers and own-account workers." What these workers have in common is that their activities are "not covered or insufficiently covered by formal arrangements" either because they are not included in the law or because they are not covered by legal arrangements in practice. These activities should be distinguished from illegal activities.<sup>7</sup>

The ILO fundamental Conventions on freedom of association (Nos. 87 and 98) explicitly state that all workers without distinction whatsoever, i.e., including workers in the informal economy, enjoy the fundamental rights which flow from freedom of association. Thus, workers in the informal economy have the right to organize and engage in collective bargaining (where there is an employer). They may freely establish and join trade unions of their own choosing for the furtherance of their occupa-

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<sup>7</sup> See Conclusions, *op.cit.* note 3, paragraphs 3, 4 and 5.

tional interests and may carry out their trade union activities (elections, administration, formulation of programmes) without intervention from the public authorities. Most importantly, they have the right to represent their members in various tripartite bodies and social dialogue structures.

The right to freedom of association entrenched in the ILO Conventions is equally applicable to employers as well as workers. Thus, those who work in the informal economy might wish to create organizations of their own choosing as employers rather than workers, and enjoy the same rights as mentioned above in relation to workers and their organizations.

The ILO has emphasized the practical significance of freedom of association for the effective improvement of the conditions of workers in the informal economy, especially women and youth: "Without organization and representation, those in the informal economy generally do not have access to a range of other rights at work. They are not able to pursue their employment interests through collective bargaining or to lobby policy-makers on issues such as access to infrastructure, property rights, taxation and social security. Women and youth, who make up the bulk of workers in the informal economy, are especially without representation and voice."<sup>8</sup> It has also emphasized the important role that existing trade unions can play in organizing workers in the informal economy: "Trade unions can sensitize workers in the informal economy to the importance of having collective representation ... With women accounting for a majority in the informal economy, trade unions should ... promote the participation and representation of women and ... accommodate their specific needs. Trade unions can provide special services to workers in the informal economy, including information on their legal rights, educational and advocacy projects, legal aid, provision of medical insurance, credit and loan schemes and the establishment of cooperatives ... There is also a need to develop and promote positive strategies to combat discrimination of all forms, to which workers in the informal economy are particularly vulnerable."<sup>9</sup>

Those who work in the informal economy may bring a complaint to the ILO Committee on Freedom of Association (CFA) if they feel that their freedom of association rights have been infringed by their Government (or by a person and their government has not taken the necessary measures to ensure the free exercise of freedom of association).

The CFA is a tripartite body composed of nine regular members representing in equal proportion the government, employer and workers' groups of the ILO Governing Body. It is chaired by an independent person. It is entrusted with hearing complaints of infringements of freedom of association rights. It formulates unanimous conclusions on the basis of the principles reflected in the fundamental Conventions on freedom of association and collective bargaining (Nos. 87 and 98) and proposes recom-

<sup>8</sup> Conclusions, *op. cit.* para. 17.

<sup>9</sup> Conclusions, *op. cit.* para. 34.

mendations to the Governments concerned. Its conclusions and recommendations are published and carry great moral weight and persuasive effect.

The CFA may examine complaints regardless of whether or not the countries concerned have ratified the ILO Conventions on freedom of association. Its competence is moreover not subject to the exhaustion of national procedures. [Digest of Decisions and Principles of the Freedom of Association Committee, fifth edition, 2006, para. 5, Procedures of the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association., paras. 29 and 30]

Complaints to the CFA should emanate from a trade union or an employers' organization (theoretically also from a government). It is important to emphasize that a trade union or employers' organization does not have to be registered or recognized at the national level in order to bring a complaint to the CFA. The CFA's rules of procedure explicitly provide that the CFA has full freedom to decide whether an organization may be deemed to be an employers' or workers' organization within the meaning of the ILO Constitution, and does not consider itself bound by any national definition of the term. The fact that an organization has not been officially recognized does not justify the rejection of allegations when it is clear from the complaint that this organization has at least a *de facto* existence. In cases in which the Committee is called upon to examine complaints from an organization on which there is no precise information, the organization in question should provide information on the size of its membership, its statutes, its national or international affiliations etc. [Procedure, *op. cit.*, paras. 33, 35 and 36]

In order for complaints to be receivable, the organization which submits the complaint must be either a national organization directly interested in the matter, or an international organization of employers or workers having consultative status with the ILO, or another international organization of employers or workers where the allegations relate to matters directly affecting its affiliated organizations. [Procedure, *op. cit.*, para. 31] Where the complaint emanates from an organization at the national level whose coverage is not of a national scope and this organization is affiliated to a national federation or confederation or an international workers' or employers' organization, such an organization should forward its complaint through the relevant national federation or confederation or the international employers' or workers' organization.

In order to make a complaint, a person with authority to bind the organization concerned should write and duly sign a letter explaining in a clear and precise manner the alleged facts which gave rise to the complaint. The letter should be fully supported by evidence. The allegations should not be purely political in character or too vague to permit a consideration of the case. [Procedure, *op. cit.*, para. 40]

The CFA meets in order to examine complaints three times a year, in March, June and November. Prior to the examination of the case, the complainant's allegations are transmitted to the Government for its observations.

Complaints which relate to issues linked to the informal economy have already been submitted to the CFA in the past. For instance, **in Case No. 2221 concerning Argentina, the Trade Union of Newspaper and Magazine Vendors of the Federal Capital and Greater Buenos Aires (SIVENDIA)**, alleged that as a result of a legislative change in the regime regulating the activity of newspaper and magazine vendors, their activity was turned into a commercial one not regulated by labour legislation and their status was changed from that of “workers” into “traders”, thereby removing their right to organize and virtually condemning their organization to extinction. The CFA resumed its general position on this matter as follows: “by virtue of the principles of freedom of association, all workers – with the sole exception of members of the armed forces and police – should have the right to establish and to join organizations of their own choosing. The criterion for determining the persons covered by that right, therefore, is not based on the existence of an employment relationship, which is often non-existent, for example in the case of agricultural workers, self-employed workers in general or those who practice liberal professions, who should nevertheless enjoy the right to organize” [see Digest, *op. cit.*, para. 254]. The CFA found that the Government’s position on this particular point was not contrary to freedom of association principles as the Government had recognized the right to organize to workers in that sector regardless of whether they were self-employed or employees, and had recently approved the granting of trade union registration to another trade union in that sector. Moreover, the rules governing the activity of newspaper and magazine vendors unequivocally presupposed the existence of trade unions since the latter were supposed to participate in the Commission supervising this sector. [Case No. 2221, 332nd report approved by the ILO Governing Body at its November 2003 session, paras. 214-227]

**In Case No. 2259 concerning Guatemala, the Trade Union of Workers of Guatemala (UNSTRAGUA), along with other national and international workers’ organizations, brought before the CFA a complaint on behalf of the Union of Independent Traders of the Central Campus of the University of San Carlos of Guatemala (SINTRACOMUSAC).** This union of workers in the informal economy had allegedly been faced with the University’s refusal to recognize it and negotiate collectively with it to establish conditions for it to carry out its activities on university premises, which were areas for public use. The allegations included moreover numerous confiscations of the products and tools of the informal sector vendors/union members by the university police without a court order, as well as threats and assaults against the general secretary of the trade union and another trade union official who attempted to distribute fliers around the university highlighting the persecution and harassment suffered by the members of the union. Noting that this dispute had arisen as a result of the university’s decision to alter the points of sale within the university campus, where the union’s members engaged in commercial activity, and that there was no labour relationship between the parties which could be the subject of collective bargaining, the CFA recommended that the Government take the measures necessary to resolve the dispute peacefully through dialogue between parties, to begin appropriate investigations into the allegations of violence and to keep it informed in this respect. [Case No. 2259, 334<sup>th</sup> report,

approved by the Governing Body at its June 2004 session, paragraphs 541, 556, 574 and 580(h)].

**In case No. 2551 concerning El Salvador, the Latin American Central of Workers (CLAT)**, in a communication of 14 February 2007, alleged that Mr Jose Vicente Ramirez, president of the National Association of Vendors, Small Traders and Similar Workers (ANTRAVEPECOS), was the first workers' leader in El Salvador's informal sector to have participated in various demonstrations in defence of workers from the municipality of Apopa and that, on 10 February 2007, the municipal authorities of Apopa launched an offensive and, by order of the courts, proceeded to evict the informal economy workers of this municipality from their work premises. Such events had been taking place since 1998. The CLAT added that, in the light of the action taken by the municipal authorities, Mr Jose Vicente Ramirez immediately began to organize a protest against the eviction measure which at the time was being imposed on the premises where he carried out his economic activity. Several days later, on 16 February 2007, the court issued a warrant for the provisional arrest of trade union leader Mr Jose Vicente Ramirez on the grounds of alleged acts of terrorism; he was detained on the same day. Once in custody, Mr Jose Vicente Ramirez and two other officials – Ms Suyapa Martinez and Mr Luis Alonso Cantarero – were charged under the Special Anti-Terrorism Act on the grounds that the mobilization of the informal economy workers constituted a terrorist act. For its part, the Government indicated that these arrests were not related to the exercise of labour or trade union rights, but to acts categorized as criminal offences. Following the examination of this case by the Committee, the Government indicated in a communication dated 17 December 2007 that the legal proceedings against Ms Suyapa Martinez for offences of serious injury, damage and aggravated damage had been definitively dismissed by the judicial authority. [Case No. 2551, 348<sup>th</sup> report, approved by the Governing Body at its November 2007 session, paragraphs 564 to 584]<sup>10</sup>.

## IV. Comments related to the informal economy formulated by the CEACR in its various General Surveys

In accordance with article 19, paragraph 5 (e), of the ILO Constitution, the Governing Body decides every year to invite governments of member States which have not ratified one or several instruments to report on their national laws and practices in regard to matters dealt with in these instruments. On the basis of the reports submitted in pursuance of that decision and of those provided under articles 22 and 35 of the Constitution by governments of States party to the instruments concerned, the Committee of Experts on the Application of Conventions and Recommendations carries out a General Survey on the effect given to the instruments under consideration for a particular year.

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<sup>10</sup> More information on the CFA and its cases on LIBSYND database at: [www.ilo.org/normes](http://www.ilo.org/normes)

Following the adoption of the ILO Declaration on Social Justice for a Fair Globalization in June 2008, the Governing Body examined the possibilities of synchronizing the various reporting cycles (recurrent reviews and article 19 and article 22 reports) with a view to ensuring the best use of the information available to the ILO and achieving reporting synergies. In this context, the Governing Body decided in 2008 to link the topic of the Committee of Experts' General Survey with that of the recurrent review; the first "linkage" took place in 2009 and produced the General Survey on employment instruments. The issue of the informal economy was discussed in some detail in this General Survey, as was the case in the 2004 General Survey on Promoting Employment. The following section, which is divided by themes, provides a selection of paragraphs relevant to the informal economy in various General Surveys of recent years.

## 1. Freedom of association and collective bargaining

### **1994 General Survey on Freedom of association and collective bargaining:**

#### *Right of workers and employers to establish and join organizations*

Paragraph 59. There are numerous other categories of workers who are denied the right to form trade unions, either because they are excluded from the scope of the labour legislation, or because the latter expressly denies them the right to organize. In particular, the Committee has noted that this is often the case of domestic staff, persons working at home or in family workshops, workers in the informal sector, persons working in charitable institutions, seafarers and workers in export processing zones. Since, however, Convention No. 87 does not exclude any of these categories, they should all be covered by the guarantees it affords and should have the right to establish and join occupational organizations. The Committee has requested those countries whose legislation denies the right to organize to one or more of the above-mentioned categories to take the necessary measures to ensure that they be accorded this right.

## 2. Employment policy

### **2010 General Survey on Employment Instruments**

#### **Chapter I:**

#### **(e) *Consultations with representatives of the persons affected by employment measures:***

##### **(iii) *Actors engaged in the consultations***

78. It is noted that this provision provides for a broad participatory approach to consultations, in that it does not limit consultations to social partners, but refers to representatives of persons affected by the employment measures. As requested by the report form, consultations covered by the Convention should include the views of other sectors of the economically active population, such as those working in the rural sector and the informal economy.

79. With respect to the informal economy, it is noted that the 90th Session of the Conference (2002) adopted a resolution concerning decent work and the informal economy which, inter alia, concluded that governments have a primary role to play in addressing decent work deficits in the informal economy, and that “specific laws, policies and programmes to deal with the factors responsible for informality, to extend protection to all workers and to remove the barriers to entry into the mainstream economy will vary by country and circumstance”. Accordingly, the Conference concluded that the formulation and implementation of such laws, policies and programmes “should involve the social partners and the intended beneficiaries in the informal economy”.

## **Chapter II: The Human Resources Development Convention, 1975 (No. 142)**

### ***(e) Open, flexible and complementary systems of education and training:***

136. The scope of application of Convention No. 142 is particularly wide. Articles 2 and 4 of the Convention imply that it embraces all systems of technical and vocational education, educational and vocational guidance and vocational training, whether the activities take place within the formal system of school education or outside of it. The Committee notes that the Convention covers “all sectors of the economy and branches of economic activity” and “all levels of skill and responsibility”, and apply to all workers, whether they are in an employment relationship or not, in the formal or informal economy.

137. The conclusions concerning decent work and the informal economy adopted by the Conference in 2002 highlight that the lack of education in addition to a lack of recognition of skills garnered in the informal economy act as a barrier to entering the formal economy. Training can be one of the instruments addressing the informal economy needs in order to improve workers’ employability and facilitate their transition towards the formal economy. Governments and the ILO through technical assistance are called upon to remove those obstacles by developing programmes and policies ensuring the provision of education, training and microfinance, which should be designed and implemented with the main objective of bringing workers or economic units from the informal economy into the mainstream. The Committee, in its observations, has constantly invited member States to provide information on their efforts to promote decent work for informal economy workers. In this respect, the Committee also wishes to recall that Recommendation No. 195 calls on Members to identify skills development policies that “address the challenge of transforming activities in the informal economy into decent work fully integrated into mainstream economic life” (Article 3(d)).

138. Training in the informal economy is an important tool to improving the performance and employability of workers with the purpose of integrating their activities into the formal labour market. Prior learning and skills gained in the informal economy, if validated by certification systems, can facilitate workers in the informal economy access the formal labour market.

141. The information obtained from the replies to the questionnaire shows that the gradual shift in recent years from teacher-centred education and training towards “learning” by the individual, which is often informal, is taken into account under Convention No. 142. The Committee notes that not all learning occurs in formal settings, and that informal learning has an important role to play in education and skills formation. Recommendation No. 195 further develops this approach in paragraphs 9(e) and 11(1) by encouraging Members to “recognize workplace learning, including formal and non formal learning, and work experience”, and to create national frameworks for recognition and certification of skills, whether acquired formally or informally, including “prior learning and previous experience”.

142. The Committee notes that several countries are introducing non-formal education and training programmes to reach groups of workers with special needs, while developing frameworks for the recognition of competencies acquired within a non-formal context.

#### **Chapter IV: The Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)**

##### ***(a) Establishment of an environment conducive to the creation and growth of SMEs:***

400. In the questionnaire, member States were invited to provide information on the promotion and pursuit of an environment conducive to the creation and growth of SMEs. On various occasions in its comments on the application of Convention No. 122, the Committee has underlined the relationship between the formulation of an active employment policy and the development of SMEs. Governments have been encouraged to provide information on the impact of the measures adopted to reduce the obstacles encountered by SMEs, for example in obtaining credit to start up a business. Governments have also been invited to update the information on SMEs, so that new measures can be adopted to increase employment opportunities, improve conditions of work in the informal economy and facilitate the progressive integration of the sector into the national economy.

#### **Chapter V: The Promotion of Cooperatives Recommendation, 2002 (No. 193)**

##### **III. Scope of the Recommendation:**

##### ***(a) Establishment of a supportive national framework for the creation and promotion of cooperatives:***

470. In Paragraph 4, the Recommendation emphasizes the importance of promoting “the potential of cooperatives in all countries, irrespective of their level of development”, in order to assist them and their membership, among other aims, to create and develop income-generating activities and sustainable decent employment. The

Recommendation also calls on governments to take measures that include special provisions for disadvantaged groups and to facilitate the integration of the informal economy into the formal economy (Paragraph 5).

#### **IV. The role of employers' and workers' organisations and cooperative organisations:**

501. Paragraphs 14 and 15 of Recommendation No.193 call on employers' and workers' organizations, and cooperative organizations, to play an active role in the promotion of cooperatives. Employers' organizations should contribute to promoting cooperatives by setting up support services in the various fields of enterprise development, such as information, education, training, management advice and other services. They should also help micro-enterprises in the informal economy to improve their competitiveness, profitability and visibility on the commercial market so as to improve their integration into the formal economy. Employers' organizations should also participate, in collaboration with workers' organizations and other interested groups, in enterprise committees, work teams and other mechanisms established at the central or local levels to discuss matters affecting the cooperative sector.

### **Part B. Global overview of employment policies**

#### **III. Employment policies:**

##### **(3) *Developing countries:***

##### **Policies towards specific groups:**

629. The Committee notes with interest that most countries stated that they had policies targeted towards the informal economy, women, youth, older workers, people with disabilities, and migrants. In its 2009 report on Convention No. 122, the Government of India communicated the Unorganized Workers' Social Security Act which was enacted on 30 December 2008. The Committee notes with interest that the Act provides that the Government may formulate suitable welfare schemes such as educational schemes for children and skills upgrading for workers in the informal sector. In Asia, the most explicit programmes on the informal economy are to be found in the current or former centrally planned economies. In Mongolia, there is a national programme on the informal economy, a key element of which is its incorporation into the formal economy through a system of registration based on the issuance of identity cards. China also gives priority to the incorporation of the informal economy into the formal, while Viet Nam emphasizes the development of community-based insurance programmes as a means of improving the welfare of workers in the informal economy.

630. In the case of Latin America, the Committee notes that that most countries laid strong emphasis on, and had elaborate policies and programmes targeting the informal economy. Argentina has set a well-articulated policy towards the informal

economy, and the Government considers informal employment to be one of the most serious challenges that has emerged in the labour market. It sees the extension of the informal economy as an erosion of the fundamental rights of workers and their families. Its overriding objective is therefore to end informal employment, but the policy recognizes the importance of taking into account the high level of heterogeneity that characterizes the informal economy in designing specific interventions. The Government of Bolivia indicates that it considers the integration of workers in the informal economy as one of its priorities as proposed by a policy document drafted in 2009. Particular initiatives have been proposed by the Ministry of Labour to promote the transition towards the formal economy. Brazil, as mentioned earlier, implements a wide range of employment and income generation programmes directed at the informal economy, principally through PROGER. Most other countries also have programmes such as microcredit, training, and small and microenterprise development that covered the informal economy.

631. Turning to Africa, the Committee notes that most countries had policies targeted at the informal economy, youth and women workers. As regards the informal economy, Rwanda indicates that it prioritizes this sector because “in the years to come in light of the rate of population increase and public sector restructuring, employment creation will depend less on Government than in the past hence the need to refocus development policies and strategies towards the private sector (including the informal economy) as a way to promote employment.” The Central African Republic indicates that its employment policies extend to the informal economy. The Government refers to its 2008–10 PRSP and actions to be undertaken which include to establish support bodies for self-employment and income-generating activity. Cameroon states that it is implementing a special project, and is promoting the formation of producer groups and the extension of credit to rural producers. Mali states that it is also establishing producer groups (*chambres d’artisans*) and has reduced import duties for informal sector producers. Niger states that it provides training and has created an apprenticeship scheme for its informal economy. Malawi is in the process of reviewing its Business Licensing Act and is promoting microfinance. Uganda states that it seeks to increase linkages between informal sector and modern sector enterprises.

#### **IV. Some concluding remarks on employment policies**

693. The Committee further notes that the concept of the informal economy and the need to devote special attention to it in developing countries, first advocated by the ILO in 1972, has also been widely assimilated. Most developing countries refer to it in their employment plans or policies and have policies and programmes directed at raising productivity and incomes in this sector. The common elements of these programmes include credit and microfinance programmes, provision of sites where these activities can be carried out, training, encouraging the formation of producer groups and assistance in acquiring inputs and in marketing. Some countries have also introduced measures to extend labour and social protection to workers in this sector.

694. The Committee notes the above evidence on the broad dissemination of some key ILO ideas on employment and, at the same time, recognizes that there remain other concepts on which there are divergent interpretations among the member States. A good example is the concept of the informal sector.

695. The Committee recalls its earlier statement that the concept of the informal sector was developed in the early 1970s to promote a better understanding the nature of the employment problem in developing countries. The intent was to promote a shift away from policies based on the then-prevailing stereotype that the informal sector was synonymous with marginal, parasitical, and illegal activities (and hence should be repressed), and towards the view that positive policies should be adopted to increase the productivity of informal sector employment and to link it with the formal sector. Far from being a negative factor, the existence of an informal sector was in fact a necessary and beneficial adjustment to the economic constraints faced by poor countries.

696. The Committee stresses that this concept was intended to apply only in the context of developing economies, and not to industrialized countries, where the existence of some economic activities evading tax and other regulations posed a different set of issues.

697. There are also different understandings of the concept of the informal economy in some developing countries. While most countries emphasize measures to raise productivity and incomes in the informal economy and to facilitate the growth of micro-entrepreneurship within it, a few countries still emphasize the registration of informal sector activities or their abolition. The Committee acknowledges that a progressive elimination of the informal economy is the ultimate goal, but wishes to point out that this goal should be achieved through sustained economic development.

During much of this long-term process, it is important to include assistance to the informal economy as part of policies to achieve full and productive employment and to reduce poverty. Such action towards the informal economy should include efforts to extend access to justice, property rights, labour rights and business rights to informal economy workers and business.

## **2004 General Survey on Promoting employment**

### **Chapter I: Employment policies**

#### **Decent work and the informal economy**

Paragraph 172. In the resolution concerning decent work and the informal economy which it adopted at its 90th Session (2002), the International Labour Conference recalled that, as a consequence of the feminization of poverty and discrimination by gender, age, ethnicity or disability, the most marginalized groups tend to end up in the informal economy where decent work deficits are most pronounced. It empha-

sized the need to eliminate the negative aspects of informality while at the same time ensuring that opportunities for livelihood and entrepreneurship are not destroyed. Considering that informality is principally a governance issue, the Conference called for the adoption of policies and programmes aimed at creating decent jobs and education, skill-building and training opportunities to help workers and employers move into the formal economy. In addition, the resolution concluded that issues related to the informal economy should be mainstreamed in poverty reduction strategies, in particular the Poverty Reduction Strategy Papers (PRSPs).

Paragraph 173. In that respect, Recommendation No. 169 stipulates that the national employment policy should recognize the importance of the informal economy as a provider of jobs, and that employment promotion programmes should be elaborated and implemented to encourage family work and independent work in individual workshops, both in urban and rural areas. It calls for measures to improve access of undertakings in the informal economy to resources, product markets, credit, infrastructure, training facilities, technical expertise and improved technologies. The Recommendation further provides that, while taking measures to increase employment opportunities and improve working conditions in the informal sector, Members should seek to facilitate the progressive integration of the latter into the national economy. The Committee believes that Recommendation No. 189 also provides valuable guidance for the adoption of measures aimed at encouraging job creation or facilitating the integration of informal employment into the formal sector by promoting small and medium-sized enterprises.

Paragraph 174. The Committee notes that several governments identify measures in support of the informal economy without, however, elaborating on their contribution to the promotion of decent work. Thus, Indonesia, Oman and Senegal mention financial assistance, and Cameroon, El Salvador, India, Indonesia, Mauritius, Romania and Suriname refer to training support. In the Côte d'Ivoire, the Support Project for the Enhancement of Labour Force Skills aims to train informal economy workers in production and management techniques, with a view to improving their productivity and consolidating their employment and incomes. In Malaysia, the Government or local council authorities provide informal sector businessmen or vendors with business premises or proper stalls in cities and towns to aid them in doing business. Honduras has developed programmes that try to reduce or overcome the risks faced by urban informal economy activities.

Paragraph 175. India reports that in order to take care of the social security and welfare of workers in the informal economy, the Government has adopted a two-pronged strategy, which includes both legislative measures and welfare funds used to provide financial assistance to the workers of particular industries, to be used for the education of their children, health and recreation facilities, and housing construction.

Paragraph 176. The report from Canada offers examples of measures that Ontario uses to promote decent work for parts of the informal economy. In September 2000,

the Minister of Labour established the Garment Industry Review Committee to report on whether the garment industry required employment standards that differed from those of the Employment Standards Act, 2000, in order to protect vulnerable workers. At the same time, the Ministry created an enforcement unit of four employment standards officers to deal exclusively with the garment industry so as to enforce more vigorously compliance in that industry. The Committee, comprising equal numbers of employer and union/employee representatives with a neutral chair, was to submit its report to the Minister of Labour early in 2003. The Act also extended coverage to homeworkers – employees who do paid work out of their own homes for an employer – of most of the minimum employment standards, thereby affording them better protection in their employment relationship. Domestic workers also are covered under the general provisions of the Act. They have the same rights whether they work part time or full time, and whether they live in or out of their employers' homes. The general minimum wage rate applies to domestic workers of 18 years of age or older.

Paragraph 177. Spain indicates that, as a result of its campaign to supervise the irregular economy and regularize the situation of immigrants, social security affiliation increased in 2001. In Italy, the Government also reports on a strategy aimed at regularizing irregular activities in the informal economy so as to achieve a qualitative improvement in employment. Romania refers to efforts to combat undeclared work, encouraging its transformation into regular employment. The Government of Bahrain, in order to reduce the number of informal sector workers and encourage their movement to the formal sector, reports on a six-month amnesty for workers who have violated employment or immigration regulations. The Government of the Netherlands states in its National Action Plan for Employment that it intends to combat undeclared work and encourage the transformation of such work into regular employment. It will make use of relevant means of action, including regulatory measures and tax reform, in consultation with the social partners. The Government of Denmark is promoting decent work through a number of initiatives targeted on a better labour market integration of refugees and immigrants.

#### **Chapter IV: The role of small and medium-sized enterprises in employment promotion**

Paragraph 372. Burdensome, time-consuming and costly procedures for registering an enterprise or getting a licence can have the adverse effects of slowing down enterprise creation and generating losses for the government, since enterprises may prefer to remain in the informal economy.

Paragraph 408. Employment is the most important guarantee of social protection in both the organized and the unorganized sectors. Social protection includes mechanisms for health, life, disability and unemployment insurance, as well as pension schemes, childcare, and maternity leave. Although social protection is reportedly one of the main concerns of workers, those in the informal economy have little or no social protection and receive little or no social security, either from their employer or

from the government. This may be due to the existing social security systems in many countries, which do not take account of the particular needs of SMEs or exclude enterprises below a certain size. Other systems are open to SMEs, but prohibitive costs prevent the latter from contributing to these schemes.

## **Chapter V: Involvement of the social partners in the design and implementation of policies**

Paragraph 432. Under Article 3 of Convention No. 122, representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies, with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies.

Paragraph 433. By referring to the “persons affected”, the Convention suggests that, depending on the structure of the economically active population, consideration should be given to the possibility of extending the consultation to representatives of categories that are likely to be affected by employment policy measures, but might not be adequately represented by the employers’ or workers’ organizations. In this connection, when adopting a revised report form on the application of the Convention, the Governing Body included a question on the manner in which representatives of persons working in the rural sector and the informal economy are involved in the consultations.

Paragraph 454. All workers, regardless of the size of their enterprise, should enjoy the same basic right to freedom of association and the right to organize and bargain collectively to improve the quality of their jobs. In some countries, workers in SMEs have been successful in protecting their rights and improving their situation through membership of various workers’ organizations and associations. However, in many other countries, SME workers – particularly those working in micro-enterprises – are rarely members of workers’ organizations and have little bargaining power vis-à-vis their employers. The organization of SME workers in associations is difficult for various reasons. These difficulties, although more prominent in the informal economy, also exist in the formal economy and can act as a strong deterrent against workers joining or forming a union out of fear of losing their jobs. Trade unions therefore need to be equipped with the knowledge and skills to reach out to workers in SMEs. Recently, there has been renewed interest in extending outreach. Examples in South Africa and Kenya clearly show that such an objective can be achieved.

### *Final remarks*

Paragraph 493. The Committee observes that the Employment Policy Convention, 1964 (No. 122), imposes a legal obligation on the ratifying State to pursue an active policy designed to promote full, productive and freely chosen employment. The Committee points out that while Convention No. 122 does not dictate a result in terms of employment levels, it does mandate a process for developing and actively

pursuing this policy. In this regard, the Committee notes the uneven levels of compliance with the provisions of the instruments calling for consultation with all the persons affected, and in particular the representatives of employers and workers, in the formulation and implementation of employment and training policies. In particular, the participation of persons working in the rural sector and the informal economy in the implementation of measures is still very uncommon. Moreover, the involvement of employers and workers in SMEs in the formulation and implementation of SME support measures is still inadequate in many countries. The Committee considers in this respect that it is the joint responsibility of governments and the representative organizations of employers and workers to ensure that representatives of the most vulnerable and marginalized groups of the active population are associated as closely as possible with the formulation and implementation of measures of which they should be the prime beneficiaries.

### 3. Labour inspection

#### **2006 General Survey on Labour Inspection**

##### **Chapter I: Evolution of the scope of labour inspection from 1947 to the present day: Towards broad coverage**

Paragraph 23. Other limitations on the scope of labour inspection are based on various criteria relating to the scope of the labour legislation such as size, turnover or number of employees of the enterprise (for example, in India, under section 2 of the Factories Act, 1948, labour legislation applies only to enterprises with at least ten employees; in Zimbabwe, the threshold under section 3 of the Factories and Works Act, 1996 is five employees; in Nigeria, under section 87 of the Factories Act, 1987, ten employees). As a result, the conditions of work of a varying substantial proportion of a country's workforce, scattered over a wide range of industrial and commercial activities, are excluded from any system of monitoring. Accordingly, some do not benefit from any technical advice or information from labour inspectors which would enable improvements to be made. Neglect of workers' rights, and exploitation of the vulnerability of some workers, are ultimately costly both in terms of reduced profits to the enterprise and for the economy as a whole. This is especially the case in the informal sector and in countries where there is a multitude of small enterprises excluded from the coverage of the legislation or where there are enterprises employing less than the threshold number of workers.

##### **Chapter II: Mandate of the labour inspection**

Paragraph 50. The limited number of labour inspectors in developing countries has made it difficult for inspectors to cover the informal economy and agriculture where most child labour is found. To address this, IPEC developed the concept of "child labour monitoring systems" (CLM) in which labour inspectorates feature as core partners. CLM extends the eyes and ears of the inspectorate through locally developed teams of monitors.

### *Final remarks*

Paragraph 370. In many developing countries, as well as certain industrialized countries, it is clear that the resources allocated to labour inspection are insufficient to enable inspection functions to be discharged properly. Budgetary constraints result in insufficient staffing, inadequately trained personnel and conditions of service which do not provide full guarantees of independence and integrity. The recruitment, training and retention in the profession of competent and motivated personnel presuppose a level of budgetary resources that is too often lacking. Similarly, the inadequacy of material resources seriously limits the impact of the labour inspectorate. In many developing countries, the influence of labour inspection is confined to formal activities in urban areas, while workers in agriculture and the informal economy, who are in greater need of protection, remain outside its scope. The lack of resources also hinders the ability of the inspectorate to respond to the evolving recognition and awareness of other hazards in the workplace, including stress, sexual harassment and aggressive or violent conduct towards workers. 373. In its examination of the reports the Committee has been made aware of the practical relevance of labour inspection especially in developing countries. It is clear that the terms of the ILO instruments on this subject draw on experience in the formal sector whereas, in many countries of the world, formal employment relations apply only to a small minority of the population; and the mandate of the labour inspectorate simply does not extend to the vast, informal economy where conditions of work are generally poorer. In this context the Committee notes, in addition to Article 5(1) of Convention No. 129, that Article 7 of Convention No. 150 calls for the extension of labour administration functions to workers who are not "employed persons". It would therefore urge further consideration of how labour inspection services might develop in this respect. Article 5(a) and (b) of Convention No. 81 and Articles 12 and 13 of Convention No. 129, on which little information has been provided in the reports, point to the interest in extending labour inspection activities, particularly in countries where resources are so scarce, through cooperation with employers and workers, and public and private institutions.

## 4. Labour administration

### **1997 General Survey on Labour Administration**

#### **Introduction**

Paragraph 11. Article 7 of the Convention provides that when national conditions so require to meet the needs of the largest number of workers, and in so far as such activities are not already covered, each Member which ratifies the Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to workers who are not, in law, employed persons. It then lists, as examples, tenants, sharecroppers, self-employed workers in the informal sector, members of cooperatives and worker-managed undertakings, those working under systems established by communal customs or traditions.

*Functions of the system of labour administration*

Paragraph 128. Convention No. 150 provides for the extension of the scope of labour administration activities to certain categories of workers who are not, in law, employed persons. Article 7 stipulates: "When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in cooperation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons ..." Article 7 also lists the main categories of workers to be covered by this provision: "(a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers; (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice; (c) members of cooperatives and worker-managed undertakings; (d) persons working under systems established by communal customs or traditions". Conventions and Recommendations have laid down rules and principles to govern the conditions of work and working life of these categories of workers.

Paragraph 130. The question of extending labour administration activities to workers who are not employed persons has become increasingly important in many countries in the last few decades. It has become very important for many developing countries owing to the chronic poverty of some categories of workers and to underemployment and unemployment. A certain number of international instruments adopted in the ILO lay down rules and principles concerning them. The informal sector has become increasingly important and concerns many of the workers covered by the extension.

Paragraph 133. Self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice are covered by provisions of the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) and the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). Convention No. 117 sets out measures to be taken to harmonize economic development with the healthy evolution of communities (Article 3), in order to promote productive capacity and improve standards of living of agricultural producers (Article 4) and, lastly, to secure for independent producers conditions which will give them scope to improve living standards and ensure the maintenance of minimum standards of living (Article 5). Recommendation No. 169 provides, in Paragraph 27(1), that the national employment policy should recognize the importance of the informal sector as a source of employment and, in Paragraph 29(2), that member States have a duty to try gradually to extend regulatory measures to the informal sector.

Paragraph 136. Some of the workers covered by Article 7 belong to the "informal sector", which accounts for a substantial part of the economy in many countries. They are the self-employed or regular or seasonal non-wage-earners working in

small rural enterprises or the non-wage-earners of very small-scale units producing and distributing goods and services in urban areas. The situation of these workers has been examined in depth particularly in a report to the Conference, entitled Rural employment promotion and in the Director-General's recent Report *The dilemma of the informal sector*. [*The dilemma of the informal sector*, ILO, Report of the Director-General, ILC, 78th Session, 1991. The Report indicates that a majority of informal sector workers are self-employed or unpaid family workers (p. 37). It defines the informal sector as referring to "very small-scale units producing and distributing goods and services, and consisting largely of independent, self-employed producers in urban areas of developing countries, some of whom also employ family labour and/or a few hired workers or apprentices ..." (p. 4). If the definition singles out developing countries, it is because in industrial countries the scale of the problem is quite different (p. 12).] The Director-General's Report states that "The general approach should ... be to regard the basic standards and provisions of labour legislation as goals to be attained progressively in the informal sector – beginning with the more viable enterprises in this sector – and to establish the institutions to promote their attainment, rather than to regard the precarious and unregulated nature of work in the informal sector as the norm for the rest of society." (p.39). It adds that "The progressive application of labour standards does not, in all cases, have to wait until the informal sector starts to 'catch up' with the modern sector. There are certain core standards that are so fundamental that their non-observance should not be tolerated". (p. 39). The characteristics of the urban informal sector mentioned in the Report are to be found in rural areas too (traditional agricultural and small rural workshops).

Paragraph 137. A certain number of reports provided information on the functions that labour administration systems fulfil for the categories of workers who are not, in law, employed persons. However, in developing countries, where non-wage-earners account for a large proportion of the active population, labour ministries are as yet unable to discharge their important duties with regard to categories such as self-employed rural workers and regular or seasonal workers in small rural enterprises as well as workers in the informal sector as a whole. Sometimes it is local conditions and a lack of resources that prevent labour administration activities from being extended to such workers.

## 5. Occupational safety and health

### 2009 General Survey on Occupational Safety and Health

#### Chapter II: Requirements of ILO standards and review of national law and practice: Convention No. 155 and Recommendation No. 164

Paragraph 39. Many countries in this survey, mostly developing countries, reported partial coverage excluding certain categories of workers within branches of economic activity. In India factories employing fewer than ten employees and not using mechanical power are excluded from coverage. According to the observations of the Indian trade union Bharatiya Mazdoor Sangh (BMS), OSH protection only exists in

the mining sector, factories, ports and construction, thus excluding more than 90 per cent of the labour force. Some of these workers may be engaged in manufacturing or waste handling, using hazardous chemicals or carrying on operations hazardous to workers' safety and health. The Confederation of Indian Trade Unions (CITU) also refers to traditional industries, such as the beedi, cashew, coir and handloom industries, where no protection is available. The BMS recommends that national OSH legislation should be generally applicable at all workplaces irrespective of the number of workers employed, and in particular in plantations, construction sites, the agricultural sector and the informal economy. In the United States, farms with less than ten employees are not covered by the federal OSH Act.

Paragraph 43. The problematic situation in the informal economy, which typically is not covered by national OSH legislation and in which workers often have to face the most unsafe and unhealthy conditions of work, was raised by some countries in their reports. The informal economy is usually considered to be the part of national economies where the decent work deficits are most pronounced. In addition, it sometimes accounts for the bulk of the workforce. The CITU states that the great majority – 94 per cent – of the workforce in India is employed in the informal economy and thus not covered by any OSH legislation. Other countries, such as Brazil, report on efforts to extend the application of their OSH legislation to the informal economy. The difficulties related to the informal economy are one of the main issues dealt with during the week dedicated to OSH in Argentina each year.

Paragraph 52. Several countries have extended consultation beyond the social partners, considering that an active role must be played by society as a whole. Others provide for very broad and thorough consultations, such as public hearings, that are often part of the legislative process. This is the case, for example, in the United States. The Committee of Experts notes that it has encouraged member States which have ratified the Employment Policy Convention, 1964 (No. 122), to include representatives of the informal economy in consultations held to formulate national employment policy in the framework of a coordinated economic and social policy.

Paragraph 112. In some countries, guidance and information are mainly conveyed through national specialized bodies capable of handling and disseminating large flows of data, such as central OSH agencies and dedicated institutes, occupational health services and workmen's compensation administrations, as well as vocational education systems, which are often established by employers' and workers' organizations. Professional associations and approved technical certification bodies also play an information role in the process of certification of OSH-related skills. The advent of the Internet and other modern communication systems has greatly facilitated access to and dissemination of free and reliable informative publications through networks linking major national, regional and international agencies with responsibilities in the OSH area. A large number of labour inspectorates offer consultations on request, either in their offices or by telephone, post or electronic mail. The reports from countries indicate that efforts to provide guidance, information, education and awareness raising on OSH have steadily increased over the

past 25 years and that all available means of communication are now being used to facilitate this access and increase knowledge of OSH legislation. In this respect, it should be noted that in Colombia, 40,000 workers in the informal economy (informal trade, agriculture, farming, coffee plantations and the informal mining sector) were reported to have been provided with guidance and information on OSH standards by direct actions and, between 2005 and 2006, 2,000 women in the informal rural sector benefited from a programme aimed at promoting health and prevention of occupational risks through training, awareness-raising and other intervention actions.

## **Chapter V: Concluding remarks**

Paragraph 300. The Committee notes that the application of national labour laws and OSH legislation to the informal economy, where a large part of the world's labour force works, is one of the most important challenges facing many countries. At the same time, the Committee is of the view that OSH provides possibly the easiest entry point for the extension of basic labour protection including basic OSH measures. It encourages governments to give consideration to designing and implementing strategies and programmes that could extend protection to or enhance protection of these workers. This could include putting into place basic infrastructures such as electricity and water and designing simple campaigns targeting basic OSH measures. The Committee hopes that governments will give due consideration to the need to design and implement specific measures to extend OSH protection to the informal economy. International and national organizations of employers and workers could also consider providing support in this area through awareness raising and promotional action.

## **6. Vocational guidance and training**

### **1991 General Survey on Human Resources Development**

#### **Part I. Human Resources Development**

##### **Chapter III. Vocational training**

Paragraph 175. In developing countries, apprenticeship is a traditional training system, especially in small enterprises and in the informal sector. The economic crisis which has struck these countries and the structural adjustment programmes which have necessitated drastic staff reductions in administrations, often their major employers, have led to difficulties for human resources development. In this context, it may be noted that a few governments, aided by the ILO's World Employment Programme, have for some time been looking to micro-entrepreneurs in the informal sector to provide apprenticeship training. Measures aimed at the informal sector are examined in greater depth in Chapter IV. It seems that the training of technicians is a weak spot in developing countries, although most large enterprises in developing countries have their own on-the-job training systems and possibly training centres.

Paragraph 209. In Kenya, the Directorate of Industrial Training alone has the legal authority to organise occupational examinations. This is seen as providing some degree of uniformity, since the certificates are recognised throughout the country. There are no conditions for taking these examinations, which helps to put training in the informal sector on an equal footing with that in NGOs and youth training centres.

Paragraph 257. A practical guide, setting out examples from relevant documents and technical co-operation, would probably help member States to develop the system best suited to their national conditions, in the spirit of paragraphs 2 and 3 of Article 1 of Convention No. 142, and to meeting their objectives. Determining factors include the size and prosperity of enterprises (whether they can invest in training), their attitude to training (whether they want to invest), management of the institutions (are there competent trainers and suitable teaching materials and whether they enjoy credibility with large and small enterprises), the reliability and competence of public agents (whether the levy all goes into training), and the existence and relative importance of technical co-operation. With regard to developing countries, the importance of the informal sector is probably not a fleeting, marginal phenomenon but rather something which covers many if not most activities, particularly in urban areas. Simply transposing levy systems in force elsewhere, when there are only a few large enterprises capable of paying and in any event loathe to share costs with small informal enterprises, appears unlikely to give the desired results. Côte d'Ivoire provides a good example of a case where attempts are made to adapt to the local context: out of the 1.2 per cent levy to be paid, enterprises must devote half to training and pay the other half into a special account held in the name of the FNR (National Regularisation Fund); some of this money may be spent on financing "collective projects" which may include crafts and the informal sector.

## **Part I. Human Resources Development**

### **Chapter IV. Programmes for particular areas or branches of economic activity**

#### **Section 5. The informal sector**

Paragraph 275. Purely and simply transposing from the "modern" sector to the informal sector has rarely been successful. However, methods and systems specifically drawn up or adapted for the "formal" sector can increasingly be applied, given the importance of the informal sector, which is covered implicitly by various provisions of the instruments in question.

Paragraph 277. By working through these groups of artisans, workshops or central organisations, it is possible to meet vital needs for further training and provide an introduction to the rudiments of managing a micro-enterprise – including book-keeping, ways of obtaining credit, drawing up estimates or specifications, reading schedules, equipping a workshop, maintaining tools, occupational safety and health, labour legislation, ways of reusing scraps or off-cuts and the manufacture of tools or

spare parts. This method also facilitates literacy training if necessary or gives guidance on how to sell goods on the market. The Committee has been informed that the ILO has experimented in the introduction of grass-root management training (GMT) in the field, which is particularly adapted to people who are illiterate or nearly illiterate; this system uses a hundred or so drawings and some 12 skits to convey a message to heads of micro-enterprises in the informal sector, especially women. These drawings and skits usually describe scenes at the market or workshop and depict everyday events to which the participants may relate. Whatever pedagogical support is used, it must be linked to practical issues encountered by workers in the informal sector and centred on problems they have to solve, and advice is also given during the training.

Paragraph 278. The advantage of various schemes used is that they make up for the shortcomings of official institutions which require a certain level of prior instruction. Co-operation with non-governmental organisations which are well versed in the conditions in the informal sector is of specific interest in this context.

## Conclusions

Paragraph 480. The growing attention which the Organisation has given to the informal sector, in both its standard-setting and technical co-operation activities, should contribute to a clearer assessment of the difficulties of application inherent in this sector, whose contributions to employment and to development in many countries are now being re-evaluated. In this respect, several reports reveal a tendency to see in Convention No. 142 nothing more than prescriptions of an institutional nature – an invitation merely to set up central bodies, with little influence on the informal sector. Nevertheless, the informal sector, which by its nature tends to elude regulation, accounts for a sizeable share of vocational guidance and training.



## PART II

# List of Conventions and Recommendations relevant to the informal economy

The assumption that workers in the informal economy are outside the scope of application of international labour standards is erroneous. Many provisions of international labour instruments, whether Conventions or Recommendations, are in fact relevant to workers in the informal economy. It should be stressed that the fact that international labour instruments may not be widely applied in practice in the informal economy does not mean they are not relevant to it. Several Conventions and Recommendations have provisions referring specifically and explicitly to the informal economy, while several other instruments contain implicit references to it. Furthermore, a number of ILO instruments apply explicitly to “workers” rather than the legally narrower term “employees”, or do not contain language limiting their application to the formal economy.<sup>11</sup>

The 2002 ILO Report on Decent work and the informal economy, which provided the basis for the discussion on decent work and the informal economy that year during the International Labour Conference, underlined the following points concerning ILO instruments and the informal economy:

- (i) ILO Conventions often have a provision to the effect that standards should be implemented in a way appropriate to national circumstances and capabilities;
- (ii) it is untrue that ILO standards are only for those in the formal economy where there is a clear employer-employee relationship;
- (iii) when a standard initially applies only to workers in the formal economy, there is sometimes explicit provision for its extension to other categories of workers (citing the example of instruments dealing with labour inspection and labour administration);

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<sup>11</sup> See A. Trebilcock, « International Labour Standards and the Informal Economy », in *Les normes internationales du travail: un patrimoine pour l'avenir – Mélanges en l'honneur de Nicolas Valticos* – ILO, Geneva, 2004, p. 590.

- (iv) here are instruments which focus on specific categories of workers who are often in the informal economy;
- (v) even when informal workers are not explicitly referred to in the text, indications of the applicability of a particular instrument can be sought within the framework of the ILO's supervisory system.<sup>12</sup>

The following section provides a non exhaustive selection of provisions of Conventions and Recommendations which are relevant to the informal economy. While there is broad acceptance that all eight fundamental Conventions apply to the informal economy, the selection of other instruments can provide more of a challenge. While some of these instruments make an explicit reference to the informal economy, others have only implicit provisions, while some instruments are pertinent in the sense that they apply to specific categories of workers who are generally present in the informal economy. The instruments have been divided by themes and by categories (whether they have explicit or implicit provisions).

## I. By Conventions

### A. Fundamental Conventions:

#### ■ Freedom of Association and the Right to Organise Convention (No. 87), 1948:

##### Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

##### Article 10

In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

#### ■ Right to Organize and Collective Bargaining Convention (No. 98), 1949:

##### Article 1

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

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<sup>12</sup> See Conclusions, *op.cit.* note 3.

**■ Forced Labour Convention (No. 29), 1930:****Article 2**

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

**■ Abolition of Forced Labour Convention (No. 105), 1957:****Article 2**

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

**■ Minimum Age Convention (No. 138), 1973:****Article 2**

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

**■ Worst Forms of Child Labour  
Convention (No. 182), 1999:**

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

**Article 2**

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

**Article 3**

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

## ■ Equal Remuneration Convention (No. 100), 1951:

### Article 1

For the purpose of this Convention:

- (a) the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- (b) the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.

## ■ Discrimination (Employment and Occupation) Convention (No. 111), 1958:

### Article 1

1. For the purpose of this Convention the term discrimination includes:

- (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

## B. Priority Conventions:

### ■ Labour Inspection Convention (No. 81), 1947

#### Article 2

1. The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and

the protection of workers while engaged in their work are enforceable by labour inspectors.

2. National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention.

(In principle, the provisions of this Convention apply to the formal sector. However, a member State may decide to explicitly extend the scope of application of the Convention to the informal economy).

### ■ **Labour Inspection (agriculture)** **Convention (No. 129), 1969:**

#### **Article 1**

1. In this Convention the term agricultural undertaking means undertakings and parts of undertakings engaged in cultivation, animal husbandry including livestock production and care, forestry, horticulture, the primary processing of agricultural products by the operator of the holding or any other form of agricultural activity.

2. Where necessary, the competent authority shall, after consultation with the most representative organisations of employers and workers concerned, where such exist, define the line which separates agriculture from industry and commerce in such a manner as not to exclude any agricultural undertaking from the national system of labour inspection.

#### **Article 4**

The system of labour inspection in agriculture shall apply to agricultural undertakings in which work employees or apprentices, however they may be remunerated and whatever the type, form or duration of their contract.

### ■ **Tripartite Consultation (international labour standards)** **Convention (No. 144), 1976:**

#### **Article 2**

2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.

#### **Article 3**

1. The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.

**■ Employment Policy Convention (No. 122), 1964:****Article 1**

1. With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and under-employment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.
2. The said policy shall aim at ensuring that:
  - (a) there is work for all who are available for and seeking work;
  - (b) such work is as productive as possible;
  - (c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.
3. The said policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices.

**Article 3**

In the application of this Convention, representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies, with a view to taking fully into account their experience and views and securing their full co-operation in formulating and enlisting support for such policies.

**C. Other relevant Conventions:**

1. Conventions containing provisions explicitly linked to the informal economy:

**■ Labour Administration Convention (No. 150), 1978:****Article 1**

For the purpose of this Convention:

- (a) the term labour administration means public administration activities in the field of national labour policy;
- (b) the term system of labour administration covers all public administration bodies responsible for and/or engaged in labour administration – whether

they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration – and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

## Article 7

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as:

- (a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
- (b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;
- (c) members of co-operatives and worker-managed undertakings;
- (d) persons working under systems established by communal customs or traditions.

## ■ Promotional Framework for Occupational Safety and Health (No. 187), 2006:

### I. DEFINITIONS

#### Article 1

For the purpose of this Convention:

- (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.

### 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.

#### **IV. NATIONAL SYSTEM**

##### **Article 4**

3. (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.

2. Conventions containing provisions implicitly linked to the informal economy:

■ **Medical Examination of Young Person  
Convention (No. 78), 1946:**

#### **PART I. GENERAL PROVISIONS**

##### **Article 1**

1. This Convention applies to children and young persons employed for wages, or working directly or indirectly for gain, in non-industrial occupations.

2. For the purpose of this Convention, the term non-industrial occupations includes all occupations other than those recognised by the competent authority as industrial, agricultural and maritime occupations.

##### **Article 2**

1. Children and young persons under eighteen years of age shall not be admitted to employment or work in non-industrial occupations unless they have been found fit for the work in question by a thorough medical examination.

##### **Article 7**

2. National laws or regulations shall determine:

(a) the measures of identification to be adopted for ensuring the application of the system of medical examination for fitness for employment to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried on in the streets or in places to which the public have access; and

(b) the other methods of supervision to be adopted for ensuring the strict enforcement of the Convention.

## ■ Protection of Wages (No. 95), 1949.

### Article 1

In this Convention, the term wages means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.

### Article 2

1. This Convention applies to all persons to whom wages are paid or payable.

## ■ Human Resources Development Convention (No. 142), 1975:

### Article 1

1. Each Member shall adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.

5. The policies and programmes shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

### Article 2

With the above ends in view, each Member shall establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, whether these activities take place within the system of formal education or outside it.

### Article 3

1. Each Member shall gradually extend its systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children, young persons and adults, including appropriate programmes for all handicapped and disabled persons.

2. Such information and guidance shall cover the choice of an occupation, vocational training and related educational opportunities, the employment situation and employment prospects, promotion prospects, conditions of work, safety and hygiene at work, and other aspects of working life in the various sectors of economic, social and cultural activity and at all levels of responsibility.

#### **Article 4**

Each Member shall gradually extend, adapt and harmonise its vocational training systems to meet the needs for vocational training throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.

#### **■ Workers with Family Responsibilities Convention (No. 156), 1981:**

##### **Article 1**

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

##### **Article 2**

This Convention applies to all branches of economic activity and all categories of workers.

##### **Article 7**

All measures compatible with national conditions and possibilities, including measures in the field of vocational guidance and training, shall be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

##### **Article 10**

1. The provisions of this Convention may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken shall apply in any case to all the workers covered by Article 1, paragraph 1.

#### **■ Social Security (Minimum Standards) Convention (No. 102), 1952:**

##### **Article 9**

The persons protected shall comprise:

- (a) prescribed classes of employees, constituting not less than 50 per cent. of all employees, and also their wives and children; or
- (b) prescribed classes of economically active population, constituting not less than 20 per cent. of all residents, and also their wives and children; or
- (c) prescribed classes of residents, constituting not less than 50 per cent. of all residents; or

- (d) where a declaration made in virtue of Article 3 is in force, prescribed classes of employees constituting not less than 50 per cent. of all employees in industrial workplaces employing 20 persons or more, and also their wives and children.

## ■ **Social Policy (Aims and Standards) Convention (No. 117), 1962:**

### **PART I. GENERAL PRINCIPLES**

#### **Article 1**

1. All policies shall be primarily directed to the well-being and development of the population and to the promotion of its desire for social progress.
2. All policies of more general application shall be formulated with due regard to their effect upon the well-being of the population.

#### **Article 5**

1. Measures shall be taken to secure for independent producers and wage earners conditions which will give them scope to improve living standards by their own efforts and will ensure the maintenance of minimum standards of living as ascertained by means of official inquiries into living conditions, conducted after consultation with the representative organisations of employers and workers.
2. In ascertaining the minimum standards of living, account shall be taken of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education.

#### **Article 13**

1. Voluntary forms of thrift shall be encouraged among wage earners and independent producers.
2. All practicable measures shall be taken for the protection of wage earners and independent producers against usury, in particular by action aiming at the reduction of rates of interest on loans, by the control of the operations of money lenders, and by the encouragement of facilities for borrowing money for appropriate purposes through co-operative credit organisations or through institutions which are under the control of the competent authority.

## ■ **Occupational Safety and Health Convention (No. 155), 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.

### **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;

### **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.

## **■ Labour Statistics Convention (No. 160), 1985:**

### **I. GENERAL PROVISIONS**

#### **Article 1**

Each Member which ratifies this Convention undertakes that it will regularly collect, compile and publish basic labour statistics, which shall be progressively expanded in accordance with its resources to cover the following subjects:

- (a) economically active population, employment, where relevant unemployment, and where possible visible underemployment;
- (b) structure and distribution of the economically active population, for detailed analysis and to serve as benchmark data;

## II. BASIC LABOUR STATISTICS

### Article 7

Current statistics of the economically active population, employment, where relevant unemployment, and where possible visible underemployment, shall be compiled in such a way as to be representative of the country as a whole.

### Article 8

Statistics of the structure and distribution of the economically active population shall be compiled in such a way as to be representative of the country as a whole, for detailed analysis and to serve as benchmark data.

## III. ACCEPTANCE OF OBLIGATIONS

### Article 17

1. A Member may limit initially the scope of the statistics referred to in the Article or Articles of Part II in respect of which it has accepted the obligations of this Convention to specified categories of workers, sectors of the economy, branches of economic activity or geographical areas.

### ■ Maternity Protection Convention (No. 183), 2000:

#### SCOPE

##### Article 1

For the purposes of this Convention, the term *woman* applies to any female person without discrimination whatsoever and the term *child* applies to any child without discrimination whatsoever.

##### Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.

2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

### 3. Conventions related to workers who are present in the informal economy:

#### **Specific categories of workers:**

##### ■ **Plantations Convention (No. 110), 1958:**

Having decided that, as an exceptional measure, in order to expedite the application to plantations of certain provisions of existing Conventions, pending the more general ratification of these Conventions and the application of their provisions to all persons within their scope, and to provide for the application to plantations of certain Conventions not at present applicable thereto, it is desirable to adopt an instrument for these purposes, (...)

#### **PART I. GENERAL PROVISIONS**

##### **Article 1**

For the purpose of this Convention, the term plantation includes any agricultural undertaking regularly employing hired workers which is situated in the tropical or subtropical regions and which is mainly concerned with the cultivation or production for commercial purposes of coffee, tea, sugarcane, rubber, bananas, cocoa, coconuts, groundnuts, cotton, tobacco, fibres (sisal, jute and hemp), citrus, palm oil, cinchona or pineapple; it does not include family or small-scale holdings producing for local consumption and not regularly employing hired workers.

##### ■ **Home Work Convention (No. 177), 1996:**

##### **Article 1**

For the purposes of this Convention:

- (a) the term home work means work carried out by a person, to be referred to as a homemaker,
  - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
  - (ii) for remuneration;
  - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,  
  
unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
- (b) persons with employee status do not become homeworkers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;

- (c) the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

## **Article 2**

This Convention applies to all persons carrying out home work within the meaning of Article 1.

## **■ Rural Workers Organisation Convention (No. 141), 1975:**

### **Article 1**

This Convention applies to all types of organisations of rural workers, including organisations not restricted to but representative of rural workers.

### **Article 2**

1. For the purposes of this Convention, the term rural workers means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier.
2. This Convention applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not:
  - (a) permanently employ workers; or
  - (b) employ a substantial number of seasonal workers; or
  - (c) have any land cultivated by sharecroppers or tenants.

### **Article 3**

1. All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations, of their own choosing without previous authorisation.
2. The principles of freedom of association shall be fully respected; rural workers' organisations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.

### **Article 5**

1. In order to enable organisations of rural workers to play their role in economic and social development, each Member which ratifies this Convention shall adopt and

carry out a policy of active encouragement to these organisations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organisations and their members as may exist.

2. Each Member which ratifies this Convention shall ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organisations.

## ■ **Indigenous and Tribal peoples**

### **Convention (No. 169), 1989:**

## **PART I. GENERAL POLICY**

### **Article 1**

1. This Convention applies to:

- (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
- (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

### **Article 23**

1. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted.

## ■ **Migration for Employment Convention**

### **(revised) (No. 97), 1949:**

### **Article 11**

1. For the purpose of this Convention the term migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.

## ■ Migrants Workers (Supplementary Provisions)

### Convention (No. 143), 1975:

#### Article 11

1. For the purpose of this Part of this Convention, the term migrant worker means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

## ■ Safety and Health in Agriculture (No. 184), 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 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.

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

### ■ **Safety and Health in Mines Convention (No. 176), 1995:**

## **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.

## **II. By Recommendations:**

### **A. Recommendations containing provisions explicitly linked to the informal economy:**

#### **a) Employment policy:**

### ■ **Employment Policy Recommendation (No. 169), 1984 :**

#### **I. General Principles of Employment Policy**

3. The promotion of full, productive and freely chosen employment should be the priority in, and an integral part of, economic and social policies of Members and, where appropriate, their plans for the satisfaction of the basic needs of the population.

4. Members should give special attention to the most efficient means of increasing employment and production and draw up policies and, if appropriate, programmes designed to facilitate the increased production and fair distribution of essential goods and services and the fair distribution of income throughout the country, with a view to satisfying the basic needs of the population in accordance with the Declaration of Principles and Programme of Action of the World Employment Conference.

5. In accordance with national practice, the policies, plans and programmes referred to in Paragraphs 3 and 4 of this Recommendation should be drawn up and implemented in consultation and co-operation with the organisations of employers and workers and other organisations representative of the persons concerned, particularly those in the rural sector covered by the Rural Workers' Organisations Convention and Recommendation, 1975.

7. The policies, plans and programmes referred to in Paragraphs 3 and 4 of this Recommendation should aim at eliminating any discrimination and ensuring for all workers equal opportunity and treatment in respect of access to employment, conditions of employment, wages and income, vocational guidance and training and career development.

8. Members should take measures to combat effectively illegal employment, that is employment which does not comply with the requirements of national laws, regulations and practice.

9. Members should take measures to enable the progressive transfer of workers from the informal sector, where it exists, to the formal sector to take place.

11. In accordance with national law and practice, the methods of giving effect to employment policies might include negotiating collective agreements on questions having a bearing on employment such as:

- (d) the protection of particular groups;

## **V. Informal Sector**

27.

- (1) National employment policy should recognise the importance as a provider of jobs of the informal sector, that is economic activities which are carried on outside the institutionalised economic structures.
- (2) Employment promotion programmes should be elaborated and implemented to encourage family work and independent work in individual workshops, both in urban and rural areas.

28. Members should take measures to promote complementary relationships between the formal and informal sectors and to provide greater access of undertak-

ings in the informal sector to resources, product markets, credit, infrastructure, training facilities, technical expertise and improved technologies.

29.

- (1) While taking measures to increase employment opportunities and improve conditions of work in the informal sector, Members should seek to facilitate its progressive integration into the national economy.
- (2) Members should take into account that integration of the informal sector into the formal sector may reduce its ability to absorb labour and generate income. Nevertheless, they should seek progressively to extend measures of regulation to the informal sector.

### ■ Human Resources Development Recommendation (No. 195), 2004:

Calling on governments, employers and workers to renew their commitment to lifelong learning: governments by investing and creating the conditions to enhance education and training at all levels; enterprises by training their employees; and individuals by making use of the education, training and lifelong learning opportunities;

## I. OBJECTIVE, SCOPE AND DEFINITIONS

3. Members should identify human resources development, education, training and lifelong learning policies which:

- (d) address the challenge of transforming activities in the informal economy into decent work fully integrated into mainstream economic life; policies and programmes should be developed with the aim of creating decent jobs and opportunities for education and training, as well as validating prior learning and skills gained to assist workers and employers to move into the formal economy;
4. (b) recognize that the realization of lifelong learning should be based on the explicit commitment: by governments by investing and creating the conditions to enhance education and training at all levels; by enterprises in training their employees; and by individuals in developing their competencies and careers.

## II. DEVELOPMENT AND IMPLEMENTATION OF EDUCATION AND TRAINING POLICIES

5. Members should:

- (h) promote access to education, training and lifelong learning for people with nationally identified special needs, such as youth, low-skilled people, people with disabilities, migrants, older workers, indigenous people, ethnic minority groups and the socially excluded; and for workers in small and

medium-sized enterprises, in the informal economy, in the rural sector and in self-employment;

### **III. EDUCATION AND PRE-EMPLOYMENT TRAINING**

8. Members should:

- (a) recognize their responsibility for education and pre-employment training and, in cooperation with the social partners, improve access for all to enhance employability and to facilitate social inclusion;
- (b) Develop approaches for non-formal education and training, especially for adults who were denied education and training opportunities when young;

### **IV. DEVELOPMENT OF COMPETENCIES**

9. Members should:

- (a) promote, with the involvement of the social partners, the ongoing identification of trends in the competencies needed by individuals, enterprises, the economy and society as a whole;
- (e) recognize workplace learning, including formal and non-formal learning, and work experience;
- (h) develop equal opportunity strategies, measures and programmes to promote and implement training for women, as well as for specific groups and economic sectors, and for people with special needs, with the objective of reducing inequalities;
- (i) promote equal opportunities for, and access to, career guidance and skill upgrading for all workers, as well as support for retraining employees whose jobs are at risk;
- (j) call upon multinational enterprises to provide training for all levels of their employees in home and host countries, to meet the needs of the enterprises and contribute to the development of the country;
- (k) promote the development of equitable training policies and opportunities for all public sector employees, recognizing the role of the social partners in this sector;

### **V. TRAINING FOR DECENT WORK AND SOCIAL INCLUSION**

10. Members should recognize:

- (a) the primary responsibility of government for the training of the unemployed, those seeking to enter or re-enter the labour market and people with special needs, to develop and enhance their employability to secure

decent work, in the private and public sectors, through such measures as incentives and assistance;

## **VI. FRAMEWORK FOR RECOGNITION AND CERTIFICATION OF SKILLS**

11. (1) Measures should be adopted, in consultation with the social partners and using a national qualifications framework, to promote the development, implementation and financing of a transparent mechanism for the assessment, certification and recognition of skills, including prior learning and previous experience, irrespective of the countries where they were acquired and whether acquired formally or informally.

### **■ Promotion of Co-operatives Recommendation (No. 193), 2002:**

Recognizing that cooperatives in their various forms promote the fullest participation in the economic and social development of all people,

Recognizing that globalization has created new and different pressures, problems, challenges and opportunities for cooperatives, and that stronger forms of human solidarity at national and international levels are required to facilitate a more equitable distribution of the benefits of globalization.

## **I. SCOPE, DEFINITION AND OBJECTIVES**

1. It is recognized that cooperatives operate in all sectors of the economy. This Recommendation applies to all types and forms of cooperatives.

2. For the purposes of this Recommendation, the term “cooperative” means an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

5. The adoption of special measures should be encouraged to enable cooperatives, as enterprises and organizations inspired by solidarity, to respond to their members’ needs and the needs of society, including those of disadvantaged groups in order to achieve their social inclusion.

8. (1) National policies should notably:

- (a) promote the ILO fundamental labour standards and the ILO Declaration on Fundamental Principles and Rights at Work, for all workers in cooperatives without distinction whatsoever;
- (b) ensure that cooperatives are not set up for, or used for, non-compliance with labour law or used to establish disguised employment relationships,

and combat pseudo cooperatives violating workers' rights, by ensuring that labour legislation is applied in all enterprises;

9. Governments should promote the important role of cooperatives in transforming what are often marginal survival activities (sometimes referred to as the "informal economy") into legally protected work, fully integrated into mainstream economic life.

#### ■ **Employment Relationship Recommendation (No. 198), 2006:**

Considering the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application,

(...)

Further recognizing that such protection should be accessible to all, particularly vulnerable workers, and should be based on law that is efficient, effective and comprehensive, with expeditious outcomes, and that encourages voluntary compliance,

(...)

Considering that the difficulties in establishing the existence of an employment relationship may create serious problems for those workers concerned, their communities, and society at large,

### **I. NATIONAL POLICY OF PROTECTION FOR WORKERS IN AN EMPLOYMENT RELATIONSHIP**

2. The nature and extent of protection given to workers in an employment relationship should be defined by national law or practice, or both, taking into account relevant international labour standards. Such law or practice, including those elements pertaining to scope, coverage and responsibility for implementation, should be clear and adequate to ensure effective protection for workers in an employment relationship.

5. Members should take particular account in national policy to ensure effective protection to workers especially affected by the uncertainty as to the existence of an employment relationship, including women workers, as well as the most vulnerable workers, young workers, older workers, workers in the informal economy, migrant workers and workers with disabilities.

6. Members should:

- (a) take special account in national policy to address the gender dimension in that women workers predominate in certain occupations and sectors where

there is a high proportion of disguised employment relationships, or where there is a lack of clarity of an employment relationship; and

## II. DETERMINATION OF THE EXISTENCE OF AN EMPLOYMENT RELATIONSHIP

9. For the purposes of the national policy of protection for workers in an employment relationship, the determination of the existence of such a relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

11. For the purpose of facilitating the determination of the existence of an employment relationship, Members should, within the framework of the national policy referred to in this Recommendation, consider the possibility of the following:

- (c) determining, following prior consultations with the most representative organizations of employers and workers, that workers with certain characteristics, in general or in a particular sector, must be deemed to be either employed or self-employed.

### B. Recommendations containing provisions implicitly linked to the informal economy:

#### ■ Protection of Wages Recommendation (No. 85), 1949:

4. The maximum intervals for the payment of wages should ensure that wages are paid:

- (a) not less often than twice a month at intervals not exceeding sixteen days in the case of workers whose wages are calculated by the hour, day or week; and
- (b) not less often than once a month in the case of employed persons whose remuneration is fixed on a monthly or annual basis.

5.

- (1) In the case of workers whose wages are calculated on a piece-work or output basis, the maximum intervals for the payment of wages should, so far as possible, be so fixed as to ensure that wages are paid not less often than twice a month at intervals not exceeding sixteen days.
- (2) In the case of workers employed to perform a task the completion of which requires more than a fortnight, and in respect of whom intervals for the payment of wages are not otherwise fixed by collective agreement or arbitration award, appropriate measures should be taken to ensure:

- (a) that payments are made on account, not less often than twice a month at intervals not exceeding sixteen days, in proportion to the amount of work completed; and
- (b) that final settlement is made within a fortnight of the completion of the task.

■ **Job Creation in Small and Medium-Sized Enterprises Recommendation (No. 189), 1998:**

**I. DEFINITION, PURPOSE AND SCOPE**

4. The provisions of this Recommendation apply to all branches of economic activity and all types of small and medium-sized enterprises, irrespective of the form of ownership (for example, private and public companies, cooperatives, partnerships, family enterprises, and sole proprietorships).

**II. POLICY AND LEGAL FRAMEWORK**

5. In order to create an environment conducive to the growth and development of small and medium-sized enterprises, Members should:

- (b) establish and apply appropriate legal provisions as regards, in particular, property rights, including intellectual property, location of establishments, enforcement of contracts, fair competition as well as adequate social and labour legislation;
- (c) improve the attractiveness of entrepreneurship by avoiding policy and legal measures which disadvantage those who wish to become entrepreneurs.

6. The measures referred to in Paragraph 5 should be complemented by policies for the promotion of efficient and competitive small and medium-sized enterprises able to provide productive and sustainable employment under adequate social conditions.

8. In times of economic difficulties, governments should seek to provide strong and effective assistance to small and medium-sized enterprises and their workers.

9. In formulating these policies, Members:

- (1) may consult, in addition to the most representative organizations of employers and workers, other concerned and competent parties as they deem appropriate;

**III. DEVELOPMENT OF AN ENTERPRISE CULTURE**

10. Members should adopt measures, drawn up in consultation with the most representative organizations of employers and workers, to create and strengthen an

enterprise culture which favours initiatives, enterprise creation, productivity, environmental consciousness, quality, good labour and industrial relations, and adequate social practices which are equitable. To this end, Members should consider:

- (4) designing and implementing, with full involvement of the organizations of employers and workers concerned, awareness campaigns to promote:
  - (b) entrepreneurial role models and award schemes, taking due account of the specific needs of women, and of disadvantaged and marginalized groups.

16. Members should, in addition:

- (4) consider specific measures and incentives for persons aspiring to become entrepreneurs among selected categories of the population, such as women, long-term unemployed, persons affected by structural adjustment or restrictive and discriminatory practices, disabled persons, demobilized military personnel, young persons including graduates, older workers, ethnic minorities and indigenous and tribal peoples. The detailed identification of these categories should be carried out taking into account national socio-economic priorities and circumstances;
- (6) encourage support for female entrepreneurship, recognizing the growing importance of women in the economy, through measures designed specifically for women who are or wish to become entrepreneurs.

18. Small and medium-sized enterprises and their workers should be encouraged to be adequately represented, in full respect for freedom of association. In this connection, organizations of employers and workers should consider widening their membership base to include small and medium-sized enterprises.

### **C. Recommendations related to workers who are present in the informal economy:**

**Specific categories of workers:**

#### **■ Rural Worker's Organisation Recommendation (No. 149), 1975:**

##### **I. General Provisions**

1.

- (1) This Recommendation applies to all types of organisations of rural workers, including organisations not restricted to but representative of rural workers.
- (2) The Co-operatives (Developing Countries) Recommendation, 1966, further remains applicable to the organisations of rural workers falling within its scope.

2.

- (1) For the purposes of this Recommendation, the term rural workers means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of subparagraph (2) of this Paragraph, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

3. All categories of rural workers, whether they are wage earners or self-employed, should have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

#### **A. Legislative and Administrative Measures**

8.

- (1) Member States should ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organisations.

(2) In particular:

- (a) the principles of right of association and of collective bargaining, in conformity especially with the Right of Association (Agriculture) Convention, 1921, the Freedom of Association and Protection of the Right to Organize Convention, 1948, and the Right to Organize and Collective Bargaining Convention, 1949, should be made fully effective by the application to the rural sector of general laws or regulations on the subject, or by the adoption of special laws or regulations, full account being taken of the needs of all categories of rural workers;
- (b) relevant laws and regulations should be fully adapted to the special needs of rural areas; for instance:

17.

- (1) As an effective means of providing the training and education referred to in Paragraph 16, programmes of workers' education or adult education, specially adapted to national and local conditions and to the social, economic and cultural needs of the various categories of rural workers, including the special needs of women and young persons, should be formulated and applied.

#### **■ Home Work Recommendation (No. 184), 1996:**

Noting that the particular conditions characterizing home work make it desirable to improve the application of those Conventions and Recommendations to homeworkers, and to supplement them by standards which take into account the special characteristics of home work, and

## I. DEFINITIONS AND SCOPE OF APPLICATION

1. For the purposes of this Recommendation:

- (a) the term home work means work carried out by a person, to be referred to as a homemaker,
  - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
  - (ii) for remuneration;
  - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,  
unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
- (b) persons with employee status do not become homeworkers within the meaning of this Recommendation simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
- (c) the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

2. This Recommendation applies to all persons carrying out home work within the meaning of Paragraph 1.

## II. GENERAL PROVISIONS

(3) In the absence of organizations concerned with homeworkers or organizations of employers of homeworkers, the authority or authorities referred to in subparagraph (1) should make suitable arrangements to permit these workers and employers to express their opinions on this national policy and on the measures adopted to implement it.

### ■ Co-operative (Developing Countries) Recommendation (No. 127), 1966:

#### I. Scope

1. This Recommendation applies to all categories of co-operatives, including consumer co-operatives, land improvement co-operatives, agricultural productive and processing co-operatives, rural supply co-operatives, agricultural marketing co-operatives, fishery co-operatives, service co-operatives, handicrafts co-operatives, work-

ers' productive co-operatives, labour contracting co-operatives, co-operative thrift and credit societies and banks, housing co-operatives, transport co-operatives, insurance co-operatives and health co-operatives.

## **II. Objectives of Policy Concerning Co-operatives**

3. In particular, co-operatives should be established and developed as a means of:

- (c) contributing to the economy an increased measure of democratic control of economic activity and of equitable distribution of surplus;

## **V. Special Provisions Concerning the Role of Co-operatives in Dealing with Particular Problems**

35. It should be recognised that co-operatives may, in certain circumstances, have a special role to play in dealing with particular problems of developing countries.



## Concluding remarks

**N**obody can ignore the fact that today, a large part of the world's working population earns its livelihood under the vulnerable and insecure conditions of the informal economy. While obtaining a true picture of the size and dynamics of the informal economy has proven to be a daunting task since definitions, concepts and measurement might differ depending in part on whether precision or country-comparability is sought, a recent ILO/WTO joint study has estimated that informal employment comprised about 78 per cent of non-agricultural employment in developing Asia, 52 per cent in Latin America and 56 per cent in Africa (with substantial variation between North Africa and Sub-Saharan Africa). It appears that these percentages would be significantly higher in some countries if informal employment in agriculture were included. Moreover, the informal economy (excluding agriculture) represents 37.7 per cent of total GDP in Sub-Saharan Africa, 30.4 per cent in North Africa, 26.8 per cent in Asia and 25.9 per cent in Latin America.<sup>13</sup>

To promote decent work, it is necessary to eliminate the negative aspects of informality while at the same time ensuring that opportunities for livelihood and entrepreneurship are not destroyed, and promoting the protection and incorporation of workers and economic units in the informal economy into the mainstream economy. This digest, which is based on the richness and the diversity of the principles and comments formulated by the ILO's supervisory bodies in recent years, is a clear reminder that international labour standards are truly the rampart of social protection. But the concept of social protection itself is seriously challenged by both structural problems – or more accurately, lack of an adequate structure to implement the standards, as is the case in the informal economy. In most situations however, laws exist but the lack or limited compliance and enforcement of these laws and the regulatory framework in the informal economy are the most important challenges. As has been rightly pointed out in recent years, “many international labour standards are far from being irrelevant or inapplicable to the informal economy. They may only be in need of serious implementation.”<sup>14</sup>

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<sup>13</sup> See Bacchetta M., Bustamante J., Ekkehard E. *Globalization and informal jobs in developing countries*, A joint study of the International Labour Office and the Secretariat of the World Trade Organization, *op.cit.* note 1, p. 25-33.

<sup>14</sup> See A. Trebilcock, *op.cit.*, note 11, p.613.



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# ANNEX

## Selection of National Laws and Regulations related to the informal economy

Country	Laws and regulations	NATLEX ISN*
Benin	<p><i>Law No. 98-019 of 21 March 2003, the Social Security Code.</i></p> <p>Establishes a general regime for social security in the formal economy (as regulated by the Labour Code) as well as a special regime for the self-employed, agricultural workers and workers in the informal economy.</p>	64370
Burkina Faso	<p><i>Decree No. 2008-240/PRES/PM/MJE/MEF of 8 May 2008 concerning the adoption of particular statutes for the Assistance Fund for the Informal Sector (FASI).</i></p> <p>Created by <b>Decree No. 98-053/PRES/METSS</b> of 24 February 1998, the Fund was established in order to provide direct loans and guarantees to creators of micro-projects. The Fund is administered by the Ministry of Employment and the Ministry of Economy and Finance and aims to promote employment and combat poverty by creating jobs through micro-projects, and in particular by providing training, follow-up and advisory services for the receivers of micro-credit loans.</p>	79118

\* NATLEX – ILO database of national labour legislation.

Country	Laws and regulations	NATLEX ISN*
Ecuador	<p><b><i>Executive Decree No. 792, of 2 August 1989, creating the system for the promotion of employment (PROE).</i></b></p> <p><b><i>Executive Decree No. 1234, of 12 February 1990, regulating the implementation of the system for the promotion of employment</i></b></p> <p>Decree no. 792 establishes the Promotion of Employment (PROE) system. Decree No. 1234 contains measures to implement emerging employment and social development programs as well as special employment projects. These measures are aimed at the most vulnerable or unprotected groups of the society that are found in situations of extreme poverty, such as those in the informal sector, in both urban and rural areas.</p>	<p>20401</p> <p>9562</p>
Egypt	<p><b><i>Decree No. 213 of 2003 promulgating the Regulation on employment in the informal sector.</i></b></p> <p>Establishes a Commission on employment in the informal sector charged with studying and formulating policy on workers in the informal sector. Provides for the registration of workers in the informal sector and the issuance of registration cards. Forbids employers to hire workers in the informal sector through non-authorized employment services. The Minister of Employment and Migration may authorize associations, institutions and trade union organizations to create employment services for their members which may serve as recruitment agencies for informal sector workers, under conditions set out in the Labour Code and in the present Decree.</p>	68590

Country	Laws and regulations	NATLEX ISN*
Georgia	<p><b><i>Presidential Decree on reducing the informal sector in relation to labour, health and social protection and introducing first measures to fight against corruption (195).</i></b></p> <p>Establishes a Commission that shall implement the program for 2001-2003 (included in the decree) and submit its annual reports to the government. The Commission shall work in collaboration with the Ministry of Finance in efforts to eradicate the causes of corruption, especially in the sector of labour, health and social protection.</p>	64449
India	<p><b><i>Unorganised Workers' Social Security Act, 2008 (No. 33 of 2008).</i></b></p> <p>Provides for the establishment of social security schemes for workers in the informal or "unorganised" economy and applies to the whole of India. For the purpose of the Act, an unorganised worker is defined as a "home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to this Act" (article 2(m)). The Government may formulate and notify suitable welfare schemes for unorganised workers such as provident fund, employment injury benefit, housing, educational schemes for children, skill upgrading of workers, funeral assistance and old age homes.</p>	81769



Country	Laws and regulations	NATLEX ISN*
	<p><b><i>Supreme Decree No. 092-87-EF approving the Regulation of the financing fund of the informal sector.</i></b></p> <p>Establishes the Financing Fund of the Informal Sector, constituted in the Industrial Bank of Peru as part of the Program of integral support for the informal sector of the institution. The objective is to facilitate access to the Fund's credit resources, to offer technical support and other support of promotional character in order to improve the socio-economic conditions of businesses in the informal sector and facilitate their gradual incorporation to the formal sector.</p>	3371
Portugal	<p><b><i>Law No. 101/2009 of 8 September establishing the legal regime for domestic work.</i></b></p> <p>Regulates the creation of an activity, without legal subordination, in the home or residence of the worker. This includes when a finished product, following the purchase of the raw materials, is provided for a specific price to the salesperson. The worker must be economically dependent on the beneficiary of the activity. Article 3 deals with work undertaken by minors at home.</p>	82529

