



## Governing Body

309th Session, Geneva, November 2010

GB.309/3/2(Rev.)

**FOR DECISION**

THIRD ITEM ON THE AGENDA

### **Matters arising out of the work of the 99th Session (2010) of the International Labour Conference**

#### **Follow-up to the adoption of the HIV and AIDS Recommendation, 2010 (No. 200) and the related resolution concerning the promotion and implementation of the Recommendation**

#### **Overview**

##### **Issues covered**

The paper outlines action taken by the Office to promote the HIV and AIDS Recommendation, 2010 (No. 200) since its adoption on 17 June 2010.

##### **Policy implications**

The Recommendation provides guidance to its tripartite constituents in developing and adopting effective rights-based national, sectoral and enterprise-level policies and programmes on HIV and AIDS and the world of work. The purpose of the follow-up activities contemplated by the Office in this paper is to assist the constituents in developing and implementing these national policies and programmes.

##### **Financial implications**

None.

##### **Decision required**

Paragraph 44.

##### **References to other Governing Body documents and ILO instruments**

HIV and AIDS Recommendation, 2010 (No. 200). Resolution concerning the promotion and the implementation of the Recommendation on HIV and AIDS and the world of work, 2010.



1. On 17 June 2010, the 99th Session of the International Labour Conference adopted the Recommendation concerning HIV and AIDS and the world of work, 2010 (No. 200). The result of the vote on the Recommendation was 443 votes in favour, 4 against, with 11 abstentions.
2. The Conference also adopted a resolution concerning the promotion and the implementation of the HIV and AIDS Recommendation. The Recommendation and the resolution are appended.

## The Recommendation

3. The Recommendation is the first international labour standard to focus specifically on HIV and AIDS. Taking a rights-based approach to the pandemic, it contains comprehensive measures to eliminate stigma and discrimination in the world of work on the basis of HIV status, real or perceived (Paragraphs 3(a) and (c); Paragraphs 9–14).
4. The Recommendation is also the first international legal instrument aimed at strengthening the contribution of the world of work to the United Nations Millennium Development Goal 6, particularly Targets 6.A and 6.B: “halt and begin to reverse, by 2015, the spread of HIV” and “achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it”. Recognizing that prevention of all means of HIV transmission is a fundamental priority, the Recommendation contains comprehensive provisions outlining the elements to be included in designing, adopting and implementing effective prevention programmes and strategies (Paragraphs 15–16). It also sets out detailed guidelines on managing the impact of HIV by facilitating access to potentially life-saving treatment, care and support programmes for workers living with HIV and for their families and dependants (Paragraphs 17–23).
5. Highlighting the role of the workplace in facilitating access to prevention, treatment, care and support services, the Recommendation calls for the development, adoption and implementation of national tripartite workplace policies and programmes on HIV and AIDS and on occupational safety and health, which are to be integrated into national development plans and strategies. These policies and programmes are to be developed by member States in consultation with the most representative organizations of employers and workers, with the involvement of other actors, including organizations representing persons living with HIV, and taking account of the views of relevant sectors, particularly the health sector (Paragraphs 4–8).
6. The Recommendation sets out comprehensive provisions on safety and health measures to be taken to prevent workers’ exposure to HIV, with particular emphasis on workers whose occupations may place them at greater risk of exposure to HIV transmission (Paragraphs 30–34).

## The resolution

7. The resolution invites the Governing Body to allocate resources within the present budget and to encourage extra-budgetary contributions to give effect to the Recommendation, requesting that a Global Action Plan be established to achieve its widespread implementation. It also invites the Governing Body to request reports from member States under article 19 of the Constitution as part of the existing reporting mechanisms, in particular general surveys, and to include in them details of progress made and, where possible, examples of good practice.

8. The resolution calls upon the Office to, among other things, provide technical assistance and support to the constituents in specified areas (see the appended resolution), to the extent that resources allow.

## **Follow-up to the Recommendation and the resolution**

9. The Office has already begun the development of promotional and training materials and advocacy tools (see paragraphs 12–15 below) and is undertaking internal consultations with relevant headquarters and field offices to determine the most efficient and effective means of promoting and implementing the Recommendation, particularly through the Global Action Plan called for in the resolution. The Global Action Plan is being developed and drafted and will be submitted to the Governing Body for consideration through the Committee on Legal Issues and International Labour Standards in March 2011. All of the action points outlined in this paper will be taken up in detail in the Global Action Plan.
10. Essential to the success of the follow-up will be the integration of this work into existing ILO programmes in a timely and cost-effective manner. In this regard, it is recalled that in establishing the ILO programme on HIV and AIDS and the world of work (ILO/AIDS), the Director-General called for HIV and AIDS issues and concerns to be mainstreamed into other ILO programmes and activities both at headquarters and in the field.<sup>1</sup> The corresponding internal governance document is being revised to take account of the adoption of the Recommendation.
11. The approach being taken by the Office in giving effect to the Recommendation and the accompanying resolution is informed by ongoing Office-wide consultations, during which linkages are being made during 2010–11 to pinpoint common priorities and identify activities for the implementation of the resolution. Further consultations will take into account the preparation for the 2012–13 biennium. The Outcome Framework of the Joint United Nations Programme on HIV/AIDS (UNAIDS) which prioritizes, amongst others, important areas of work such as gender equality, human rights, and social protection, is another point of entry.

## **Dissemination and advocacy**

12. Following the 2010 International Labour Conference, promotional information has been disseminated at a number of national, regional and international advocacy and training activities. The Office provided a report on the Recommendation to governments and civil society representatives at the plenary session of the UNAIDS Programme Coordinating Board which took place in June 2010, immediately after the Conference. It also promoted the Recommendation at the XVIII International AIDS Conference held in Vienna, Austria from 18 to 23 July 2010, where it coordinated a major Workplace Partners Forum and additional related events with the participation of ILO constituents and key workplace partners.
13. The Recommendation has been presented in several training programmes held at the International Training Centre in Turin (Turin Centre), including a capacity-building course on “HIV and AIDS and the World of Work” held from 13 to 24 September 2010, and the training course “International Labour Standards for Judges, Lawyers and Legal Educators”

<sup>1</sup> See ILO: *Establishment of an ILO programme on HIV/AIDS and the world of work (ILO/AIDS)*, Circular No. 187(Rev.1), Series 2, 26 Feb. 2001.

held from 30 August to 10 September 2010. The Recommendation was also presented in the Turin training programmes coordinated by the Bureaux for Employers' Activities (ACT/EMP) and for Workers' Activities (ACTRAV), including a "Trade union training on OSH and HIV and AIDS" (Africa and the Caribbean) held from 27 September to 8 October 2010.

14. The texts of the Recommendation and the resolution have been posted on the ILO/AIDS website in the ILO working languages, and translations into other languages are being posted as soon as they are received. The website also contains a database of national legislation and policies adopted by ILO member States relevant to HIV and AIDS and the world of work, which is updated on a continuous basis. Promotional and assistance programmes at regional and country levels and educational and advocacy material relevant to the Recommendation are listed there as well.
15. Governments are being encouraged to include initial plans for implementation in the submission of Recommendation No. 200 to the competent authorities, which is required to take place by 16 June 2011 (or 16 December 2011 in exceptional circumstances), in accordance with article 19(6) of the ILO Constitution. Governments are required by article 23 of the Constitution to communicate copies of their reports to organizations of employers and workers, and may wish to undertake consultations with these organizations, on the action to be taken, in conformity with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The inclusion of organizations of persons living with HIV in the consultations leading up to submission to the competent authorities and to the establishment of national workplace policies and programmes is also being encouraged.

## Decent Work Agenda

### *Employment*

16. The Recommendation states that Members should "integrate their policies and programmes on HIV and AIDS and the world of work in development plans and poverty reduction strategies, including decent work, sustainable enterprises and income-generating strategies, as appropriate" (Paragraph 4(b)). The Office will therefore seek to assist Members, in consultation with employers' and workers' organizations, to formulate, adopt and implement such national policies and programmes, or to update those that are already in place.
17. The Recommendation underscores the need for persons living with or affected by HIV to be able to continue in employment (Paragraph 13) as long as they are fit to do so, with reasonable accommodation as necessary. Retention in employment is often the primary – if not the only – means of ensuring that workers will be able to have access to health-related services, including treatment, and nutritional support as a component of appropriate treatment. In this regard, the Recommendation emphasizes that "there should be no discrimination against or stigmatization of workers ... on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection" (Paragraph 3(c)). The Office will seek to assist members to draft legislation and policy to prevent HIV-related discrimination in employment.
18. The Recommendation refers to the importance of the development of income-generating opportunities in the context of HIV and AIDS. The Office will therefore seek to assist constituents to stimulate income-generating opportunities for HIV-affected workers and their families.

19. The Office will pursue its ongoing efforts to mainstream HIV and AIDS concerns into all aspects of the world of work, particularly targeting workers in those sectors most exposed to the risk of HIV transmission. The impact of the current economic crisis hits vulnerable groups the hardest, thereby compounding vulnerability to HIV infection. Targeted HIV prevention policies and programmes at the workplace are called for in the Global Jobs Pact. The Office will seek to act through the development of policy advice, additional tools and materials, conducting necessary participatory research to strengthen the knowledge base. It will also seek to develop evidence-informed strategies that will increase the impact and cost-effectiveness of technical cooperation projects.

### **Social protection**

20. In terms of social protection, the Recommendation provides that Members should, in consultation with the most representative organizations of employers and workers, develop, adopt and implement “national policies and programmes on HIV and AIDS and the world of work and on occupational safety and health, where these do not already exist” (Paragraph 4(a)). It states that occupational safety and health measures should take into account “the Occupational Safety and Health Convention, 1981, and Recommendation, 1981, the Promotional Framework for Occupational Safety and Health Convention, 2006, and Recommendation, 2006, and other relevant international instruments, such as joint International Labour Office and WHO guidance documents” (Paragraph 30). It also provides, inter alia, that “Safety and health measures to prevent workers’ exposure to HIV at work should include universal precautions, accident and hazard prevention measures” (Paragraph 31). The Office is therefore giving further consideration, in consultation with the World Health Organization (WHO), among others, to specific occupational safety and health needs related to HIV and AIDS, on the basis of Paragraphs 30–34 of the Recommendation. The measures to be taken should include education and training on all modes of transmission and measures to prevent exposure and infection, when there is a possibility of exposure to HIV at work.
21. The Recommendation contains specific protections for migrant workers (Paragraphs 27–28). Although compulsory HIV testing and screening of migrant workers is contrary to all existing human rights principles and policies at the international level, it became clear during the preparatory stages that this is still required by a number of countries. The Office will therefore seek to implement joint UNAIDS, ILO and International Organization for Migration guidelines on migration, increase awareness-raising and provide assistance to design appropriate framework agreements for migration, based on ILO standards and the ILO Multilateral Framework on Labour Migration.<sup>2</sup>
22. Discussions are under way to determine how best to promote coverage by social security programmes without discrimination on the basis of their real or perceived HIV status, and to “ensure collaboration and coordination among the public authorities and public and private services concerned, including insurance and benefit programmes or other types of programmes” as provided for in Paragraph 37(d) and elsewhere in the Recommendation. The upcoming recurrent discussion on social security may be an appropriate time to explore this further.

---

<sup>2</sup> *ILO Multilateral Framework on Labour Migration. Non-binding principles and guidelines for a rights-based approach to labour migration*, ILO, Geneva, 2006.

## ***Principles and rights at work***

23. The Recommendation makes it clear that “the response to HIV and AIDS should be recognized as contributing to the realization of human rights and fundamental freedoms and gender equality for all, including workers, their families and their dependants” (Paragraph 3(a)), and that promoting respect for international labour standards is a primary means of promoting respect for the principles in the Recommendation. It refers specifically to a number of standards that should be taken into account in drawing up national workplace policies and programmes. The ratification of fundamental Conventions continues to be part of the Director-General’s ratification campaign, which calls for universal ratification by 2015.<sup>3</sup> Accelerating the ratification and implementation of these Conventions is a priority, particularly in the light of the relevant outcomes of the Strategic Policy Framework 2010–15. Work is under way in cooperation with the International Labour Standards Department to continue to work for the universal ratification of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which is of particular importance in the response to HIV and AIDS. Given the high ratification rates of the fundamental Conventions and the work that has been done in many countries to promote ratification, a more targeted approach will be used, taking into account the particular situation of each country.
24. Action to promote and implement other Conventions and Recommendations highlighted in the Recommendation will be determined on a case-by-case basis in response to the needs and demands of constituents and the comments of the supervisory bodies. The Recommendation refers to Convention No. 111; the Termination of Employment Convention, 1982 (No. 158); the List of Occupational Diseases Recommendation, 2002 (No. 194); the Occupational Safety and Health Convention, 1981 (No. 155) and Recommendation, 1981 (No. 164); the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Recommendation, 2006 (No. 197); the Occupational Health Services Convention, 1985 (No. 161) and Recommendation, 1985 (No. 171); the Minimum Age Convention, 1973 (No. 138) and Recommendation, 1973 (No. 146); the Worst Forms of Child Labour Convention, 1999 (No. 182) and Recommendation, 1999 (No. 190); and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), as well as to the ILO Declaration on Fundamental Principles and Rights at Work, 1998, the ILO code of practice on HIV/AIDS and the world of work, 2001, and the code of practice on the protection of workers’ personal data, 1997.

## ***Social dialogue***

25. Social dialogue and tripartism are essential policy tools to advance the goals of the Recommendation in the world of work at the international, regional, national, community and enterprise levels. The Office is working with ACTRAV and ACT/EMP to produce training and advocacy materials to promote implementation of the principles contained in the Recommendation through promotion of social dialogue.
26. The Office continues to support workers’ and employers’ organizations in building capacity with regard to policy-making, research and information dissemination on HIV and AIDS in the workplace, and these efforts will be intensified.
27. Trade unions will be assisted in developing and adapting their own policies and programmes concerning HIV and AIDS following the adoption of the Recommendation, to allow them to participate effectively in the formulation and implementation of workplace

<sup>3</sup> ILO: *Decent work: Some strategic challenges ahead*, Report of the Director-General, Report I(C), International Labour Conference, 97th Session, Geneva, 2008.

policies and programmes at the national level. Discussions are under way with ACTRAV, the International Trade Union Confederation, the Organization of African Trade Union Unity and global union federations to ensure a harmonized approach to the implementation of the Recommendation.

28. Employers' policies and programmes are to be developed or adapted in consultation with ACT/EMP and the International Organisation of Employers (IOE). The Office will, inter alia, encourage the IOE to update and adapt the 2002 *Employers' handbook on HIV/AIDS: A guide for action*.<sup>4</sup>
29. The Office will also seek to work with the international workers' and employers' organizations to encourage the updating and adaptation of the 2003 IOE/ICFTU global agreement on HIV and AIDS,<sup>5</sup> to enhance collaboration and underscore the urgency of action.
30. To support compliance efforts, strong and effective labour administration and inspection systems will be promoted, in accordance with Paragraph 44 of the Recommendation which provides that "The role of the labour administration services, including the labour inspectorate, and of the judicial authorities competent in labour issues, in the response to HIV and AIDS, should be reviewed and, if necessary, strengthened." National and international cooperation and networking will be encouraged in order to improve government capacity to monitor and enforce the application of policy, laws and regulations on gender equality. Training programmes that target judges competent in labour matters, labour inspectors, labour administration authorities and other government officials will be intensified, and new tools will be developed, so that members of the labour administration will have up-to-date and accurate information and specialized training in regard to HIV and AIDS and the workplace. Training programmes of this nature conducted by the Turin Centre in recent years with the participation of ILO/AIDS have shown positive results. A new global training package for labour inspectors that comprises information and guidelines on HIV and AIDS is being prepared, to update the existing training manual for the labour administration services and judicial authorities competent in labour matters.
31. The Recommendation is intended to apply to "all workers working under all forms or arrangements, and at all workplaces". It applies to "all sectors of economic activity, including the private and public sectors and the formal and informal economies"; and to the "armed forces and uniformed services" (Paragraph 2). Plans will be drawn up for different sectors, in consultation with the Sectoral Activities Department, to ensure effective action in relevant sectors, including but not limited to agriculture, mining, fishing and seafarers, construction and tourism, consistent with Paragraph 37(a)(iv) of the Recommendation.

<sup>4</sup> Available at: [www.ioe-emp.org/fileadmin/user\\_upload/documents\\_pdf/papers/guides/english/guide\\_2002may\\_hiv-aidshandbook.pdf](http://www.ioe-emp.org/fileadmin/user_upload/documents_pdf/papers/guides/english/guide_2002may_hiv-aidshandbook.pdf).

<sup>5</sup> IOE/ICFTU: *Fighting HIV/AIDS together. A programme for future engagement*, joint statement, Geneva, 12 May 2003.

## Knowledge and capacity building

32. Before submission of the Recommendation to the competent national authorities in accordance with article 19 of the ILO Constitution, the Office will work with constituents at the national level to promote surveys and campaigns for knowledge, action, and recommendations to parliaments. It is expected that some of the submissions to the competent authorities will include proposals for giving effect to the Recommendation's provisions progressively and at the earliest possible time.
33. The Office will prepare, and encourage others to prepare submissions to professional journals and other publications to make the Recommendation more widely known in academic and professional settings.
34. Guidance materials of various kinds are already being prepared to assist the constituents and non-governmental organizations, including organizations of persons living with HIV, to give effect to the Recommendation.

## Working at the regional level

35. Discussions are being initiated with all ILO regional directors to help give effect to the Recommendation, in ways adapted to the needs and characteristics of each region. Regional directors, especially in high prevalence countries, will be asked to assist with the facilitation of meetings between ministries of health and of labour, to encourage them to work together more closely on HIV and tuberculosis prevention, treatment, care and support. It would be advantageous to encourage greater cooperation in the world of work between responsible ministries in order to be able to implement fully integrated programmes of action.
36. Wherever feasible, information on the Recommendation is being integrated into regional tripartite meetings in order to encourage the development or the update of tripartite-plus workplace policies. When national workplace policies are being drafted, or where they are already in place, national tripartite-plus workshops will be held to encourage full implementation of the Recommendation. In connection with such workshops, participatory research to record and demonstrate the evolving impact of the epidemic will be encouraged and supported whenever possible. Consultation of the field staff of UNAIDS has revealed that a number of events have already been held in the regions, and that others are being planned, reflecting a considerable interest in the new Recommendation and in how it can assist in the response to HIV and AIDS. Information on these activities will be posted on the ILO/AIDS website.<sup>6</sup> Copies of the Recommendation are being distributed widely, in both electronic and paper formats. Presentations and discussions have been held with officials from other parts of the United Nations system, and with national organizations of employers and of workers. In a number of countries, private sector employers have requested information on the new Recommendation, and have taken part in familiarization sessions on it. National HIV/AIDS workplace committees, where these already exist, have been consulted. In some cases, constituents have requested assistance in revising national workplace HIV and AIDS policies which have already been adopted, or which are under consideration. Translations into local languages are under way and are being posted on the ILO/AIDS website once received.

<sup>6</sup> [www.ilo.org/aids/lang--en/index.htm](http://www.ilo.org/aids/lang--en/index.htm).

## Development cooperation and partnerships

37. The Office will encourage the identification and delivery of specific country programme outcomes at the national level to ensure effective follow-up to the Recommendation and the resolution and to meet the growing demand for technical assistance.
38. Supplementary funding will be sought from external donors to promote the implementation of the Recommendation, in particular to develop information resources and to assist the constituents in its implementation.
39. The Office will continue to work with its partners in the UNAIDS programme, offering the Recommendation as a new tool to enhance cooperation and promote joint action as contemplated in the Recommendation. This will include working with the World Food Programme on nutrition, with the United Nations Office on Drugs and Crime on harm reduction strategies and programmes, with the United Nations High Commissioner for Refugees on migrant workers, with the United Nations Population Fund to bring assistance for prevention, treatment, care and support to sex workers, with the United Nations Development Programme on Poverty Reduction Strategies, human rights and gender equality, with the United Nations Children's Fund on prevention of mother to child transmission (PMTCT), with the United Nations Educational, Scientific and Cultural Organization on education and with the World Bank on the development of national strategic plans on HIV and AIDS.
40. Joint strategies will be targeted for development with the WHO on occupational safety and health issues related to HIV and AIDS and tuberculosis in workplaces, with particular emphasis on the protection of health sector workers. Awareness of the role of the world of work in the prevention of transmission and in other facets of the response to HIV and AIDS will be promoted through the networks of these other partners in UNAIDS. It is planned that a joint letter from the ILO and UNAIDS on the Recommendation will be sent to all UNAIDS staff.
41. Consideration is being given to the establishment of a global task team to support ILO/AIDS's efforts to promote the dissemination and implementation of the Recommendation.
42. Paragraph 6 of the resolution "invites the Governing Body to request regular reports from member States under article 19 of the ILO Constitution as part of the existing reporting mechanisms, in particular General Surveys. Governments' reports relating to HIV and AIDS should be prepared in consultation with the most representative employers' and workers' organizations, including details of progress made and, where possible, examples of good practice".
43. One means of obtaining information on the implementation of the Recommendation would be to ensure that recurrent reports under the ILO Declaration on Social Justice for a Fair Globalization, and the questionnaires for related article 19 reports are prepared with HIV and AIDS taken into account, including questions about the implementation of the Recommendation, whenever appropriate. The Governing Body may also wish to take the opportunity of requesting that the issue of implementation of the Recommendation be addressed in the near future as the subject of an article 19 general survey.

---

**44. In light of the foregoing, the Governing Body may wish to request the Director-General to:**

- (a) communicate the text of the resolution concerning the promotion and the implementation of the Recommendation in the standard manner to the governments of member States, and through them to the national employers' and workers' organizations;*
- (b) take all necessary steps for the establishment of the Global Action Plan called for in the resolution, including placing the Plan as an item on the agenda of the 310th Session of the Governing Body;*
- (c) make concrete proposals in due course to the Governing Body with a view to an effective follow-up to the HIV and AIDS Recommendation, 2010 (No. 200), and the related resolution concerning the promotion and implementation of the Recommendation; and*
- (d) continue to carry out the follow-up actions outlined herein in response to the pandemic.*

Geneva, 6 October 2010

*Point for decision:* Paragraph 44



## Appendix I

### HIV and AIDS Recommendation, 2010 (No. 200)

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International  
Labour Office, and having met in its 99th Session on 2 June 2010, and

Noting that HIV and AIDS have a serious impact on society and economies, on  
the world of work in both the formal and informal sectors, on workers, their  
families and dependants, on the employers' and workers' organizations and  
on public and private enterprises, and undermine the attainment of decent  
work and sustainable development, and

Reaffirming the importance of the International Labour Organization's role  
in addressing HIV and AIDS in the world of work and the need for the  
Organization to strengthen its efforts to achieve social justice and to combat  
discrimination and stigmatization with regard to HIV and AIDS in all  
aspects of its work and mandate, and

Recalling the importance of reducing the informal economy by attaining decent  
work and sustainable development in order to better mobilize the world of  
work in the response to HIV and AIDS, and

Noting that high levels of social and economic inequality, lack of information and  
awareness, lack of confidentiality and insufficient access to and adherence  
to treatment, increase the risk of HIV transmission, mortality levels, the  
number of children who have lost one or both parents and the number of  
workers engaged in informal work, and

Considering that poverty, social and economic inequality and unemployment  
increase the risk of lack of access to prevention, treatment, care and support,  
therefore increasing the risk of transmission, and

Noting that stigma, discrimination and the threat of job loss suffered by persons  
affected by HIV or AIDS are barriers to knowing one's HIV status, thus  
increasing the vulnerability of workers to HIV and undermining their right  
to social benefits, and

Noting that HIV and AIDS have a more severe impact on vulnerable and at-risk  
groups, and

Noting that HIV affects both men and women, although women and girls are at  
greater risk and more vulnerable to HIV infection and are disproportionately  
affected by the HIV pandemic compared to men as a result of gender  
inequality, and that women's empowerment is therefore a key factor in the  
global response to HIV and AIDS, and

Recalling the importance of safeguarding workers through comprehensive  
occupational safety and health programmes, and

Recalling the value of the ILO code of practice *An ILO code of practice on HIV/  
AIDS and the world of work*, 2001, and the need to strengthen its impact  
given that there are limits and gaps in its implementation, and

Noting the need to promote and implement the international labour Conventions and Recommendations and other international instruments that are relevant to HIV and AIDS and the world of work, including those that recognize the right to the highest attainable standard of health and to decent living standards, and

Recalling the specific role of employers' and workers' organizations in promoting and supporting national and international efforts in response to HIV and AIDS in and through the world of work, and

Noting the important role of the workplace as regards information about and access to prevention, treatment, care and support in the national response to HIV and AIDS, and

Affirming the need to continue and increase international cooperation, in particular in the context of the Joint United Nations Programme on HIV/AIDS, to support efforts to give effect to this Recommendation, and

Recalling the value of collaboration at the national, regional and international levels with the structures dealing with HIV and AIDS, including the health sector and with relevant organizations, especially those representing persons living with HIV, and

Affirming the need to set an international standard in order to guide governments and organizations of employers and workers in defining their roles and responsibilities at all levels, and

Having decided upon the adoption of certain proposals with regard to HIV and AIDS and the world of work, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this seventeenth day of June of the year two thousand and ten the following Recommendation, which may be cited as the HIV and AIDS Recommendation, 2010.

#### I. DEFINITIONS

1. For the purposes of this Recommendation:

- (a) "HIV" refers to the human immunodeficiency virus, a virus that damages the human immune system. Infection can be prevented by appropriate measures;
- (b) "AIDS" refers to the acquired immunodeficiency syndrome which results from advanced stages of HIV infection, and is characterized by opportunistic infections or HIV-related cancers, or both;
- (c) "persons living with HIV" means persons infected with HIV;
- (d) "stigma" means the social mark that, when associated with a person, usually causes marginalization or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV;
- (e) "discrimination" means any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, as referred to in the Discrimination (Employment and Occupation) Convention, 1958, and Recommendation, 1958;
- (f) "affected persons" means persons whose lives are changed by HIV or AIDS owing to the broader impact of the pandemic;

- (g) “reasonable accommodation” means any modification or adjustment to a job or to the workplace that is reasonably practicable and enables a person living with HIV or AIDS to have access to, or participate or advance in, employment;
- (h) “vulnerability” means the unequal opportunities, social exclusion, unemployment or precarious employment, resulting from the social, cultural, political and economic factors that make a person more susceptible to HIV infection and to developing AIDS;
- (i) “workplace” refers to any place in which workers perform their activity; and
- (j) “worker” refers to any persons working under any form or arrangement.

## II. SCOPE

2. This Recommendation covers:

- (a) all workers working under all forms or arrangements, and at all workplaces, including:
  - (i) persons in any employment or occupation;
  - (ii) those in training, including interns and apprentices;
  - (iii) volunteers;
  - (iv) jobseekers and job applicants; and
  - (v) laid-off and suspended workers;
- (b) all sectors of economic activity, including the private and public sectors and the formal and informal economies; and
- (c) armed forces and uniformed services.

## III. GENERAL PRINCIPLES

3. The following general principles should apply to all action involved in the national response to HIV and AIDS in the world of work:

- (a) the response to HIV and AIDS should be recognized as contributing to the realization of human rights and fundamental freedoms and gender equality for all, including workers, their families and their dependants;
- (b) HIV and AIDS should be recognized and treated as a workplace issue, which should be included among the essential elements of the national, regional and international response to the pandemic with full participation of organizations of employers and workers;
- (c) there should be no discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection;
- (d) prevention of all means of HIV transmission should be a fundamental priority;
- (e) workers, their families and their dependants should have access to and benefit from prevention, treatment, care and support in relation to HIV and AIDS, and the workplace should play a role in facilitating access to these services;
- (f) workers’ participation and engagement in the design, implementation and evaluation of national and workplace programmes should be recognized and reinforced;

- (g) workers should benefit from programmes to prevent specific risks of occupational transmission of HIV and related transmissible diseases, such as tuberculosis;
- (h) workers, their families and their dependants should enjoy protection of their privacy, including confidentiality related to HIV and AIDS, in particular with regard to their own HIV status;
- (i) no workers should be required to undertake an HIV test or disclose their HIV status;
- (j) measures to address HIV and AIDS in the world of work should be part of national development policies and programmes, including those related to labour, education, social protection and health; and
- (k) the protection of workers in occupations that are particularly exposed to the risk of HIV transmission.

#### IV. NATIONAL POLICIES AND PROGRAMMES

4. Members should:

- (a) adopt national policies and programmes on HIV and AIDS and the world of work and on occupational safety and health, where they do not already exist; and
- (b) integrate their policies and programmes on HIV and AIDS and the world of work in development plans and poverty reduction strategies, including decent work, sustainable enterprises and income-generating strategies, as appropriate.

5. In developing the national policies and programmes, the competent authorities should take into account the ILO code of practice on HIV/AIDS of 2001, and any subsequent revision, other relevant International Labour Organization instruments, and other international guidelines adopted on this subject.

6. The national policies and programmes should be developed by the competent authorities, in consultation with the most representative organizations of employers and workers, as well as organizations representing persons living with HIV, taking into account the views of relevant sectors, especially the health sector.

7. In developing the national policies and programmes, the competent authorities should take into account the role of the workplace in prevention, treatment, care and support, including the promotion of voluntary counselling and testing, in collaboration with local communities.

8. Members should take every opportunity to disseminate information about their policies and programmes on HIV and AIDS and the world of work through organizations of employers and workers, other relevant HIV and AIDS entities, and public information channels.

#### *Discrimination and promotion of equality of opportunity and treatment*

9. Governments, in consultation with the most representative organizations of employers and workers should consider affording protection equal to that available under the Discrimination (Employment and Occupation) Convention, 1958, to prevent discrimination based on real or perceived HIV status.

10. Real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities consistent with the provisions of the Discrimination (Employment and Occupation) Convention, 1958.

11. Real or perceived HIV status should not be a cause for termination of employment. Temporary absence from work because of illness or caregiving duties related to HIV or AIDS should be treated in the same way as absences for other health reasons, taking into account the Termination of Employment Convention, 1982.

12. When existing measures against discrimination in the workplace are inadequate for effective protection against discrimination in relation to HIV and AIDS, Members should adapt these measures or put new ones in place, and provide for their effective and transparent implementation.

13. Persons with HIV-related illness should not be denied the possibility of continuing to carry out their work, with reasonable accommodation if necessary, for as long as they are medically fit to do so. Measures to redeploy such persons to work reasonably adapted to their abilities, to find other work through training or to facilitate their return to work should be encouraged, taking into consideration the relevant International Labour Organization and United Nations instruments.

14. Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by:

- (a) ensuring respect for human rights and fundamental freedoms;
- (b) ensuring gender equality and the empowerment of women;
- (c) ensuring actions to prevent and prohibit violence and harassment in the workplace;
- (d) promoting the active participation of both women and men in the response to HIV and AIDS;
- (e) promoting the involvement and empowerment of all workers regardless of their sexual orientation and whether or not they belong to a vulnerable group;
- (f) promoting the protection of sexual and reproductive health and sexual and reproductive rights of women and men; and
- (g) ensuring the effective confidentiality of personal data, including medical data.

#### *Prevention*

15. Prevention strategies should be adapted to national conditions and the type of workplace, and should take into account gender, cultural, social and economic concerns.

16. Prevention programmes should ensure:

- (a) that accurate, up to date, relevant and timely information is made available and accessible to all in a culturally sensitive format and language through the different channels of communication available;
- (b) comprehensive education programmes to help women and men understand and reduce the risk of all modes of HIV transmission, including mother-to-child transmission, and understand the importance of changing risk behaviours related to infection;
- (c) effective occupational safety and health measures;
- (d) measures to encourage workers to know their own HIV status through voluntary counselling and testing;
- (e) access to all means of prevention, including but not limited to guaranteeing the availability of necessary supplies, in particular male and female condoms and, where appropriate, information about their correct use, and the availability of post-exposure prophylaxis;

- (f) effective measures to reduce high-risk behaviours, including for the most at-risk groups, with a view to decreasing the incidence of HIV; and
- (g) harm reduction strategies based on guidelines published by the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the United Nations Office on Drugs and Crime (UNODC) and other relevant guidelines.

#### *Treatment and care*

17. Members should ensure that their national policies and programmes on workplace health interventions are determined in consultation with employers and workers and their representatives and are linked to public health services. They should offer the broadest range of appropriate and effective interventions to prevent HIV and AIDS and manage their impact.

18. Members should ensure that workers living with HIV and their dependants benefit from full access to health care, whether this is provided under public health, social security systems or private insurance or other schemes. Members should also ensure the education and awareness raising of workers to facilitate their access to health care.

19. All persons covered by this Recommendation, including workers living with HIV and their families and their dependants, should be entitled to health services. These services should include access to free or affordable:

- (a) voluntary counselling and testing;
- (b) antiretroviral treatment and adherence education, information and support;
- (c) proper nutrition consistent with treatment;
- (d) treatment for opportunistic infections and sexually transmitted infections, and any other HIV-related illnesses, in particular tuberculosis; and
- (e) support and prevention programmes for persons living with HIV, including psychosocial support.

20. There should be no discrimination against workers or their dependants based on real or perceived HIV status in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivors' benefits.

#### *Support*

21. Programmes of care and support should include measures of reasonable accommodation in the workplace for persons living with HIV or HIV-related illnesses, with due regard to national conditions. Work should be organized in such a way as to accommodate the episodic nature of HIV and AIDS, as well as possible side effects of treatment.

22. Members should promote the retention in work and recruitment of persons living with HIV. Members should consider extending support through periods of employment and unemployment, including where necessary income-generating opportunities for persons living with HIV or persons affected by HIV or AIDS.

23. Where a direct link can be established between an occupation and the risk of infection, AIDS and infection by HIV should be recognized as an occupational disease or accident, in accordance with national procedures and definitions, and with reference to the List of Occupational Diseases Recommendation, 2002, as well as other relevant International Labour Organization instruments.

*Testing, privacy and confidentiality*

24. Testing must be genuinely voluntary and free of any coercion and testing programmes must respect international guidelines on confidentiality, counselling and consent.

25. HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, jobseekers and job applicants.

26. The results of HIV testing should be confidential and not endanger access to jobs, tenure, job security or opportunities for advancement.

27. Workers, including migrant workers, jobseekers and job applicants, should not be required by countries of origin, of transit or of destination to disclose HIV-related information about themselves or others. Access to such information should be governed by rules of confidentiality consistent with the ILO code of practice on the protection of workers' personal data, 1997, and other relevant international data protection standards.

28. Migrant workers, or those seeking to migrate for employment, should not be excluded from migration by the countries of origin, of transit or of destination on the basis of their real or perceived HIV status.

29. Members should have in place easily accessible dispute resolution procedures which ensure redress for workers if their rights set out above are violated.

*Occupational safety and health*

30. The working environment should be safe and healthy, in order to prevent transmission of HIV in the workplace, taking into account the Occupational Safety and Health Convention, 1981, and Recommendation, 1981, the Promotional Framework for Occupational Safety and Health Convention, 2006, and Recommendation, 2006, and other relevant international instruments, such as joint International Labour Office and WHO guidance documents.

31. Safety and health measures to prevent workers' exposure to HIV at work should include universal precautions, accident and hazard prevention measures, such as organizational measures, engineering and work practice controls, personal protective equipment, as appropriate, environmental control measures and post-exposure prophylaxis and other safety measures to minimize the risk of contracting HIV and tuberculosis, especially in occupations most at risk, including in the health-care sector.

32. When there is a possibility of exposure to HIV at work, workers should receive education and training on modes of transmission and measures to prevent exposure and infection. Members should take measures to ensure that prevention, safety and health are provided for in accordance with relevant standards.

33. Awareness-raising measures should emphasize that HIV is not transmitted by casual physical contact and that the presence of a person living with HIV should not be considered a workplace hazard.

34. Occupational health services and workplace mechanisms related to occupational safety and health should address HIV and AIDS, taking into account the Occupational Health Services Convention, 1985, and Recommendation, 1985, the *Joint ILO/WHO guidelines on health services and HIV/AIDS*, 2005, and any subsequent revision, and other relevant international instruments.

*Children and young persons*

35. Members should take measures to combat child labour and child trafficking that may result from the death or illness of family members or caregivers due to AIDS and to reduce the vulnerability of children to HIV, taking into account the ILO Declaration on Fundamental Principles and Rights at Work, 1998, the Minimum Age Convention, 1973, and Recommendation, 1973, and the Worst Forms of Child Labour Convention, 1999, and Recommendation, 1999. Special measures should be taken to protect these children from sexual abuse and sexual exploitation.

36. Members should take measures to protect young workers against HIV infection, and to include the special needs of children and young persons in the response to HIV and AIDS in national policies and programmes. These should include objective sexual and reproductive health education, in particular the dissemination of information on HIV and AIDS through vocational training and in youth employment programmes and services.

V. IMPLEMENTATION

37. National policies and programmes on HIV and AIDS and the world of work should:

- (a) be given effect, in consultation with the most representative organizations of employers and workers and other parties concerned, including relevant public and private occupational health structures, by one or a combination of the following means:
  - (i) national laws and regulations;
  - (ii) collective agreements;
  - (iii) national and workplace policies and programmes of action; and
  - (iv) sectoral strategies, with particular attention to sectors in which persons covered by this Recommendation are most at risk;
- (b) involve the judicial authorities competent in labour issues, and labour administration authorities in the planning and implementation of the policies and programmes, and training in this regard should be provided to them;
- (c) provide for measures in national laws and regulations to address breaches of privacy and confidentiality and other protection afforded under this Recommendation;
- (d) ensure collaboration and coordination among the public authorities and public and private services concerned, including insurance and benefit programmes or other types of programmes;
- (e) promote and support all enterprises to implement the national policies and programmes, including through their supply chains and distribution networks, with the participation of organizations of employers and workers and ensure that enterprises operating in the export processing zones comply;
- (f) promote social dialogue, including consultation and negotiation, consistent with the Tripartite Consultation (International Labour Standards) Convention, 1976, and other forms of cooperation among government authorities, public and private employers and workers and their representatives, taking into account the views of occupational health personnel, specialists in HIV and AIDS, and other parties including organizations representing persons living with HIV, international organizations, relevant civil society organizations and country coordinating mechanisms;

- (g) be formulated, implemented, regularly reviewed and updated, taking into consideration the most recent scientific and social developments and the need to mainstream gender and cultural concerns;
- (h) be coordinated with, among others, labour, social security and health policies and programmes; and
- (i) ensure that Members make reasonable provision for the means of their implementation, with due regard to national conditions, as well as to the capacity of employers and workers.

#### *Social dialogue*

38. Implementation of policies and programmes on HIV and AIDS should be based on cooperation and trust among employers and workers and their representatives, and governments, with the active involvement, at their workplace, of persons living with HIV.

39. Organizations of employers and workers should promote awareness of HIV and AIDS, including prevention and non-discrimination, through the provision of education and information to their members. These should be sensitive to gender and cultural concerns.

#### *Education, training, information and consultation*

40. Training, safety instructions and any necessary guidance in the workplace related to HIV and AIDS should be provided in a clear and accessible form for all workers and, in particular, for migrant workers, newly engaged or inexperienced workers, young workers and persons in training, including interns and apprentices. Training, instructions and guidance should be sensitive to gender and cultural concerns and adapted to the characteristics of the workforce, taking into account the risk factors for the workforce.

41. Up to date scientific and socio-economic information and, where appropriate, education and training on HIV and AIDS should be available to employers, managers and workers' representatives, in order to assist them in taking appropriate measures in the workplace.

42. Workers, including interns, trainees and volunteers should receive awareness-raising information and appropriate training in HIV infection control procedures in the context of workplace accidents and first aid. Workers whose occupations put them at risk of exposure to human blood, blood products and other body fluids should receive additional training in exposure prevention, exposure registration procedures and post-exposure prophylaxis.

43. Workers and their representatives should have the right to be informed and consulted on measures taken to implement workplace policies and programmes related to HIV and AIDS. Workers' and employers' representatives should participate in workplace inspections in accordance with national practice.

#### *Public services*

44. The role of the labour administration services, including the labour inspectorate, and of the judicial authorities competent in labour issues, in the response to HIV and AIDS, should be reviewed and, if necessary, strengthened.

45. Public health systems should be strengthened and follow the *Joint ILO/WHO guidelines on health services and HIV/AIDS*, 2005, and any subsequent revision, to help ensure greater access to prevention, treatment, care and support, and reduce the additional strain on public services, particularly on health workers, caused by HIV and AIDS.

#### *International cooperation*

46. Members should cooperate, through bilateral or multilateral agreements, through their participation in the multilateral system or through other effective means, in order to give effect to this Recommendation.

47. Measures to ensure access to HIV prevention, treatment, care and support services for migrant workers should be taken by countries of origin, of transit and of destination, and agreements should be concluded among the countries concerned, whenever appropriate.

48. International cooperation should be encouraged between and among Members, their national structures on HIV and AIDS and relevant international organizations and should include the systematic exchange of information on all measures taken to respond to the HIV pandemic.

49. Members and multilateral organizations should give particular attention to coordination and to the necessary resources to satisfy the needs of all countries, especially high prevalence countries, in the development of international strategies and programmes for prevention, treatment, care and support related to HIV.

50. Members and international organizations should seek to reduce the price of supplies of any type, for the prevention, treatment and care of infection caused by HIV and other opportunistic infections and HIV-related cancers.

#### VI. FOLLOW-UP

51. Members should establish an appropriate mechanism or make use of an existing one, for monitoring developments in relation to their national policy on HIV and AIDS and the world of work, as well as for formulating advice on its adoption and implementation.

52. The most representative organizations of employers and workers should be represented, on an equal footing, in the mechanism for monitoring developments in relation to the national policy. In addition, these organizations should be consulted under the mechanism as often as necessary, taking into consideration the views of organizations of persons living with HIV, expert reports or technical studies.

53. Members should, to the extent possible, collect detailed information and statistical data and undertake research on developments at the national and sectoral levels in relation to HIV and AIDS in the world of work, taking into account the distribution of women and men and other relevant factors.

54. In addition to the reporting under article 19 of the Constitution of the International Labour Organization, a regular review of action taken on the basis of this Recommendation could be included in national reports to UNAIDS and reports under relevant international instruments.

## Appendix II

### Resolution concerning the promotion and the implementation of the Recommendation on HIV and AIDS and the world of work, 2010<sup>1</sup>

The General Conference of the International Labour Organization, meeting at its 99th Session, 2010,

Having adopted the Recommendation on HIV and AIDS and the world of work, 2010,

Noting that the success of the Recommendation will depend upon the effective promotion and implementation of its requirements,

Mindful that the core mandate of the Organization is to promote decent work and sustainable enterprises,

Noting the ILO's participation as a tripartite organization in the Joint United Nations Programme on HIV/AIDS (UNAIDS) efforts to address HIV and AIDS,

1. Invites the Governing Body of the International Labour Office to allocate the resources within the existing budget and look for additional extra-budgetary resources to carry out the work with the tripartite constituents to give effect to the Recommendation in the world of work.

2. Invites the Governing Body to take action to promote collaborative efforts with the various international organizations concerning HIV and AIDS at the workplace.

3. Invites the Governing Body to request that a Global Action Plan be established to achieve widespread implementation of the Recommendation in order to reduce the impact of HIV and AIDS in the workplace. This should be developed with the representative employers' and workers' organizations, taking into account the views of UNAIDS, organizations representing persons living with HIV and AIDS, and other relevant parties.

4. Invites the Governing Body to request the Director-General to give due regard to fair allocation of the Office's technical cooperation resources to countries. Member States and the most representative workers' and employers' organizations may request assistance in the implementation of the Recommendation in areas such as:

- (a) technical assistance in developing and implementing tripartite national policies, programmes, and legislation to meet the requirements of this Recommendation;
- (b) providing support and building capacity to train, communicate, monitor, implement and advocate, for example:
  - (i) the development of training programmes and materials to build capacity, including those with a sectoral focus;
  - (ii) the training of workplace HIV and AIDS focal persons and educators, including employers' and workers' representatives and labour administrators;
  - (iii) the development of promotional materials and advocacy tools related to the Recommendation; and
  - (iv) national and regional seminars and workshops promoting the Recommendation.

5. Invites member States to use existing mechanisms or to establish mechanisms at the national level to review progress, and monitor developments and share examples of good practice in relation to the implementation of the national policies and programmes on HIV and AIDS relevant to the world of work.

6. Invites the Governing Body to request regular reports from member States under article 19 of the ILO Constitution as part of the existing reporting mechanisms, in particular General Surveys. Governments' reports relating to HIV and AIDS should be prepared in consultation with

<sup>1</sup> Adopted on 16 June 2010.

the most representative employers' and workers' organizations, including details of progress made and, where possible, examples of good practice.

7. Invites the Governing Body to periodically review the progress made in the implementation of this Recommendation.

8. Invites the Governing Body to promote to member States the extension under Article 1(1)(b) of the Discrimination (Employment and Occupation) Convention, 1958, so that the protection afforded under that Convention is extended to real or perceived HIV status.