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FIRST ITEM ON THE AGENDA

Area of critical importance: Protecting workers from unacceptable forms of work

Purpose of the document

This paper sets out the strategy for the area of critical importance (ACI) on “Protecting workers from unacceptable forms of work”. It provides an overview of the strategy, the main areas of focus and progress on implementation.

The Governing Body is invited to provide guidance on the strategy, its implementation and the way forward (see draft decision in paragraph 26).

Relevant strategic objective: All.

Policy implications: The guidance of the Governing Body will inform the implementation of the Office strategy concerning protecting workers from unacceptable forms of work, including the support that the Office will provide to its constituents.

Legal implications: None.

Financial implications: None.

Follow-up action required: Integration of the guidance provided by the Governing Body into the strategy, workplan and way forward.

Author unit: Conditions of Work and Equality Department (WORKQUALITY).

Related documents: Programme and Budget for 2014–15; Programme and Budget proposals for 2016–17; ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998, Follow-up revised 2010); ILO Declaration on Social Justice for a Fair Globalization (2008); *Towards the ILO centenary: Realities, renewal and tripartite commitment*, Report of the Director-General, Report I(A), International Labour Conference, 102nd Session, Geneva, 2013; Independent evaluation of the ILO’s strategies on fundamental principles and rights at work (2014).

Background and rationale

1. The Programme and Budget for 2014–15, adopted by the International Labour Conference (ILC) at its 102nd Session (2013), introduced “Protecting workers from unacceptable forms of work” as one of the eight areas of critical importance (hereinafter ACI 8) for priority action by the Organization during the biennium. The programme and budget defines unacceptable forms of work as comprising “conditions that deny fundamental principles and rights at work, put at risk the lives, health, freedom, human dignity and security of workers or keep households in conditions of poverty”.¹
2. This ACI is consistent with the Director-General’s call for attention to be paid to the most vulnerable categories of working women and men who face great insecurity and for whom denial of social justice is most harmful.² Certain categories of workers, such as migrant workers and workers in sectors such as agriculture, construction, fisheries, mining, domestic work and at the less-skilled level of manufacturing are more exposed than others to unacceptable forms of work, which can be found in both formal and informal work settings.
3. ACI 8 is intended to strengthen the effectiveness and impact of the ILO’s action to promote the respect of the fundamental principles and rights at work by eliminating egregious labour practices and to make sustainable changes to the conditions that produce and perpetuate such practices, in the spirit of the ILO Declaration on Social Justice for a Fair Globalization (2008). These conditions include, among others: poor education and skills; low productivity; ill health (for example, due to occupational safety and health hazards or excessively long hours of work); absence of voice and representation; discrimination; unduly low wages; and late payment, underpayment or non-payment of wages.
4. While the concept of unacceptable forms of work is relatively new in ILO discussions, the multiple and interrelated policy areas that address it are not new. These include measures relating to: the promotion of freedom of association and the right to effective collective bargaining; the abolition of child labour and forced labour; the promotion of non-discrimination and equality; actions to address occupational safety and health conditions and working-time arrangements that put workers’ health and safety at risk; and well-structured minimum wages and effective wage-protection measures to protect workers and their families from extreme income insecurity.
5. The goal of this ACI, which cuts across several technical areas of the Office’s activities, is to trace and describe the occurrences of unacceptable forms of work in different contexts, understand what causes them, identify what policies, measures and strategies are being taken to address unacceptable forms of labour and what results will be yielded, and promote actions to prevent or eliminate their recurrence. This ACI is meant to accelerate the transition to decent work through a more focused targeting of ILO interventions and through the mobilization of all means of action, including international labour standards, policy advice and technical assistance. Increased ratification and implementation of international labour standards in the policy areas specified above is important, as well as

¹ ILO: *The Director-General’s Programme and Budget proposals for 2014–15*, Report II (Supplement), International Labour Conference, 102nd Session, Geneva, 2013, para. 49.

² *Towards the ILO centenary: Realities, renewal and tripartite commitment*, Report of the Director-General, Report I(A), International Labour Conference, 102nd Session, Geneva, 2013, paras 147–148.

the need to find solutions that can be applied across borders, in particular with action at subregional and regional levels and along supply chains.

6. This ACI is also intended to contribute to the follow-up of ILC and Governing Body mandates, including: the recurrent discussion on the strategic objective of fundamental principles and rights at work (2012), along with the recently-published independent evaluation report³ and the adoption of the Protocol to the Forced Labour Convention, 1930 (2014); the Plan of action (2010–16) to achieve widespread ratification and effective implementation of the occupational safety and health instruments, adopted by the Governing Body at its 307th Session (March 2010); the outcome⁴ of the discussion of the 2014 Conference Committee on the Application of Standards on the General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Recommendation, 1970 (No. 135); and the forthcoming recurrent discussion on social protection (labour protection), which will take place during the 104th Session of the ILC (2015).
7. This paper provides information on ongoing work and preliminary results and seeks guidance from the Governing Body on implementation of the strategy, in view of the proposed Outcome 8 of the Programme and Budget proposals for 2016–17.

Strategic approach and progress made

8. Key features of this ACI include: a sectoral focus to target interventions towards sectors and categories of workers where protection needs are most acute and where ILO contribution can make a difference; a multidisciplinary approach that draws on the contribution of several areas of technical expertise; and use of complementary means of action.
9. During its first year of implementation, ACI 8 has sought to:
 - (a) promote an understanding of the dimensions and parameters of unacceptable forms of work in different national circumstances and of common features that transcend national boundaries;
 - (b) test practical strategies and measures to protect workers from unacceptable forms of work on the ground.
10. Work on the ACI is being conducted at the mutually enforcing global and national levels.

Global level

11. Extensive work has been done to strengthen the ILO knowledge base of what constitutes unacceptable forms of work, how to address them and what is the added value of integrated work to address the complex list of issues. To this end, a global study was conducted that examined the concept of unacceptable forms of work compared to related concepts developed by academia and international organizations such as the World Bank,

³ ILO: *Independent evaluation of the ILO's strategies on fundamental principles and rights at work*, Geneva, September 2014. The evaluation report calls for an all-encompassing fundamental principles and rights at work strategy and for strengthening the link between the ILO's related normative function, policy advice and technical assistance.

⁴ ILO: *Provisional Record* No. 13, ILC, Geneva, 2014.

regional development banks and the European Union. A review of gaps in protection identified by the ILO supervisory bodies and the underlying reasons was also produced. Through a Delphi survey approach, seven dimensions⁵ and a set of descriptors were identified to assess unacceptable forms of work. These dimensions and descriptors provide guidance for rapid assessments that are being conducted at country level. To improve delivery at this level, work is currently under way to develop fact sheets and policy briefs on innovative approaches to workers' and employers' organizations and collective bargaining to provide guidance on ways in which vulnerable workers, such as migrant workers, domestic workers, and seasonal workers, can be protected from unacceptable forms of work. Furthermore, work is being done to develop a policy guide on minimum wages, which will also look into feasible ways to extend protection to workers typically excluded from minimum wage coverage and lessons learnt through work carried out by the ILO–IFC Better Work programme to improve the observance and respect of fundamental principles and rights at work as well as compliance with national legislation relating to wages, working time and occupational safety and health in global supply chains.

Country interventions

12. Ongoing work at the country level ranges from carrying out assessments in specific sectors to identify the occurrences and causes of unacceptable forms of work to implementing pilot country-level interventions. This work is based on a multidimensional model of intervention targeting specific sectors and categories of workers, adapted to local and national circumstances and developed in cooperation with the ILO's tripartite constituency. The outcomes of these pilot interventions are also expected to add to the global knowledge base by providing concrete case studies that could be used in other sectors or regions.
13. Participating countries, including Benin, Plurinational State of Bolivia, Brazil, Costa Rica, India, Malawi, Morocco, Pakistan, various Pacific Island countries, southern African countries, Thailand, and Uzbekistan are at different stages of development and have different regulatory and policy environments. Countries were selected following recommendations by ILO regional and country offices on the basis of one or a combination of the following criteria:
 - requests for technical assistance from governments, including in response to concerns raised by the supervisory bodies;
 - ongoing work related to child labour, forced labour or labour migration;
 - political will and emerging policy debates, such as the growing visibility of labour migration on regional and national policy agendas, and constituents' enhanced commitment to tackle the situation of vulnerable migrant workers, especially those that are less skilled;
 - priorities identified in Decent Work Country Programmes, and the Office's capacity to deliver services and achieve results during the biennium.
14. Country-level interventions were initiated in mid-2014 and focus on several thematic areas. For example, ILO interventions are addressing unacceptable forms of work in sectors with a high prevalence of domestic or international migrant workers where protection needs are particularly acute. In Thailand, the fishing industry is ranked third globally, with the value of exports totalling US\$7 billion, and with fishers enduring

⁵ Working time, employment-related income, occupational safety and health, recruitment and contractual arrangements, social protection, prevention and access to remedies and workers' dignity.

extreme working conditions and non-respect of their fundamental principles and rights at work. Many workers work against their will and cannot leave because wages have not been paid or due to threats of violence and denunciation to the authorities – many are irregular migrant workers. Low wages, long hours (over 17 hours per day) and lack of written employment contracts are commonplace. This situation is compounded by limited monitoring by the labour inspectorate or other government bodies, limited access to complaints mechanisms and lack of workers' organizations. To address the conditions of work that migrant workers face in that sector, the ILO has supported interventions focused on strengthening the legal framework and the institutional capacity for labour inspection and occupational safety and health, and supporting trade unions, industry associations and non-governmental organizations. As a first step towards a more stable solution, the Thailand Ministerial Regulation No. 10 on Sea Fisheries Work has been adopted, which includes a number of provisions on labour protection.

15. In the context of regional integration processes, the progressive harmonization of policies on employment, migration and social protection is an outstanding task. In line with the agenda of the Ouagadougou+10 Summit, the capacities of constituents in southern Africa are being enhanced to more effectively engage in the protection of migrant workers through the collection of good practices, capacity building and knowledge sharing among regional economic communities. In Costa Rica, the Office supported under this ACI, the implementation of the country's migration policy, the first of its kind in Latin America, by focusing on the domestic, agricultural and tourism sectors and working towards improving labour inspection and promoting social dialogue and access to justice. This has led to demands at the subregional level to expand this intervention to the Northern Triangle (El Salvador, Guatemala and Honduras) where migrant workers are in great need of protection.
16. *Child labour and forced labour (Uzbekistan)*. For a number of years, the ILO supervisory bodies have been addressing comments to Uzbekistan concerning the application of the Abolition of Forced Labour Convention, 1957 (No. 105), and the Worst Forms of Child Labour Convention, 1999 (No. 182), in the context of the mobilization and use of labour for purposes of economic development in agriculture, especially in cotton production. The latter generates approximately 17 per cent of the country's gross domestic product, however wages are low and working conditions are poor, resulting in major decent work deficits. In June 2013, the Government agreed to a joint ILO–Uzbek monitoring mission. Subsequently, the ILO Committee of Experts and the Conference Committee on the Application of Standards urged the Government to continue collaboration with the ILO and with the social partners, with a view to eliminating reliance on children for harvesting cotton and ensuring the complete elimination of compulsory labour. In the context of ACI 8, the Office provided assistance on child labour and forced labour and increased its technical assistance with the signing of the first Decent Work Country Programme for Uzbekistan (2014–16). Two of its three areas of priority are strengthening social partnership in Uzbekistan for the realization of fundamental principles and rights at work, and improving working conditions and social protection.
17. *Addressing unacceptable forms of work through multi-stakeholder cooperation and dialogue at different levels of governance*. To protect workers from unacceptable forms of work in preparation of and during mega-events (the 2014 World Cup and the 2016 Olympic Games), ILO interventions in Brazil focused on strengthening awareness regarding unacceptable forms of work, improving social dialogue mechanisms and the promotion of decent work in the construction sector. This initiative has also paved the way towards the development of a replicable intervention model on promoting decent work in mega-events by the end of 2015. A number of national committees were established at municipal, state and federal levels to promote decent work within the framework of the World Cup. ILO interventions in southern Africa are focusing on strengthening the

capacity of constituents for improved labour migration governance and protection of migrant workers through social dialogue at national and subregional levels. The ILO is also providing guidance on how tripartism could form the basis for migration policy processes in several regional economic communities in Africa. In India, with a view to reducing workers' vulnerability to bonded labour, social dialogue was instrumental in promoting the improvement of recruitment systems, working conditions and wage protection, while strengthening the capacities of workers' and employers' organizations to enhance their understanding of bonded labour and reinforce trade unions' rights and collective bargaining.

18. *Rapid country assessments in Africa.* Through consultations with constituents, rapid assessments in selected sectors are being carried out in Morocco (domestic work) and Benin (mining, quarrying and manual scavenging) in order to identify and understand the occurrences and causes of unacceptable forms of work, and clarify the value added of this concept and approach. The findings of these assessments will be discussed in tripartite forums in 2015 and national action plans attuned to national needs and capacities will be developed for full implementation in 2016–17.

Involvement of the social partners

19. Through the Bureau for Employers' Activities (ACTRAV) and the Bureau for Workers' Activities (ACT/EMP), social partners have been engaged in identifying the priorities and thematic areas of the strategy for this ACI. The strategy of using both global and country-level interventions has benefited from the insights provided by social partners. At the global level, social partners were consulted on the following aspects: finalizing the global study on unacceptable forms of work; the design of the Delphi survey questionnaire, identifying the national workers' and employers' organizations participating in the exercise, and in the formulation of the dimensions and related descriptors; and developing the terms of reference of the innovative approaches to workers' and employers' organizations and collective bargaining. At the country level, their involvement ranged from contributing to preparatory work to implementation of activities. The work under way in Brazil has enhanced social dialogue mechanisms at different levels of governance. In Thailand, in order to address the lack of workers' representation in the fishing sector, the ILO is supporting the formation of trade unions and non-governmental organizations through information sharing in that sector. In Uzbekistan, the Decent Work Country Programme is supporting the involvement of social partners in national policy formulation and implementation, as well as their integration into their respective international umbrella organizations. This work is in progress and there is a plan for further cooperation with ACTRAV, ACT/EMP and the social partners throughout the duration of the Office's work.

Links with the other ACIs

20. While all ACIs are interconnected, ACI 6 on formalization of the informal economy, ACI 3 on social protection floors, ACI 7 on strengthening workplace and labour inspection and ACI 5 on decent work in the rural economy are particularly pertinent to ACI 8. Unacceptable forms of work can be found both in formal and informal work settings, but are more common in the latter. Formalizing the informal economy brings workers into work arrangements that offer better protection. The extension of social protection to informal workers, who may be excluded de jure or de facto from this protection, is an important part of transitioning towards formality. Effective protection under law depends not only on coverage but also on compliance with the law, hence the importance of well-conceived compliance strategies. The rural economy and the agricultural sector often exhibit significant protection deficits due to hazardous working environments, weak

regulatory oversight, casualization of wage labour and weak workers' representation, among other reasons.

Conclusions

21. The goal of the ACI is to raise the effectiveness and sustainability of the ILO's action with a view to eliminating unacceptable forms of work. The ACI strategy focuses on distinct sectors and categories of workers that are at the highest risk of being trapped in unacceptable forms of work.
22. The work carried out to date has confirmed that unacceptable forms of work are the result of failures in different and interrelated policy domains, beginning with the denial of fundamental principles and rights at work.
23. Multifaceted problems require multidimensional responses. The Office is pilot testing initiatives aimed at sustaining progress on fundamental principles and rights at work with measures that address the material conditions that render workers powerless and vulnerable, in order to accelerate transition to decent work for all. ILO action has been comprehensive and integrated, while at the same time aligning itself with national and local capacities.
24. The involvement of the ILO tripartite constituency in the construction of a strategy to protect workers from unacceptable forms of work is crucial to ensure their ownership and the sustainability of interventions and to defuse possible concerns in respect of its implications. A good understanding of the specificities of the sectors with high prevalence of unacceptable forms of work and the categories of workers that are at higher risk is equally key to ensuring better-tailored responses.
25. This ACI has also demonstrated the value for the ILO and its constituents of addressing long-standing problems identified by the ILO's supervisory bodies. The strategy seeks to promote a virtuous cycle between the Office's policy advice and technical assistance and the supervisory bodies' subsequent comments.

Draft decision

26. *The Governing Body requests the Director-General to take account of its guidance in implementing the strategy for the ACI on "Protecting workers from unacceptable forms of work", also in view of the proposed Outcome 8 of the Programme and Budget proposals for 2016–17.*